

Title 67. State Officers and Employees

Chapter 1 Governor

67-1-1 General powers and duties.

In addition to those prescribed by the constitution, the governor has the following powers and must perform the following duties:

- (1) He shall supervise the official conduct of all executive and ministerial officers.
- (2) He shall see that all offices are filled and the duties thereof performed, or in default thereof, apply such remedy as the law allows, and, if the remedy is imperfect, acquaint the Legislature therewith at its next session.
- (3) He shall make appointments and fill vacancies as required by law.
- (4) He is the sole official organ of communication between the government of this state and the government of any other state and of the United States.
- (5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state, and may employ such additional counsel as he may judge expedient.
- (6) He may require the attorney general or the county attorney or district attorney of any county to inquire into the affairs or management of any corporation doing business in this state.
- (7) He may require the attorney general to aid any county attorney or district attorney in the discharge of his duties.
- (8) He may offer rewards, not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison, or any person who has committed, or is charged with the commission of, a felony.
- (9) He must perform such duties respecting fugitives from justice as are prescribed by law.
- (10) He must issue and transmit election proclamations as prescribed by law.
- (11) He must issue land warrants and patents as prescribed by law.
- (12) He must, prior to each regular meeting of the Legislature, deliver to the Division of Archives for publication all biennial reports of officers, commissions, and boards for the two preceding years.
- (13) He may require any officer, commission, or board to make special reports to him in writing.
- (14) He must discharge the duties of a member of all boards of which he is or may be made a member by the constitution or by law.
- (15) He shall each year issue a proclamation recommending the observance of Arbor day, by the planting of trees, shrubs, and vines, in the promotion of forest growth and culture, and in the adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of such holiday.
- (16) He has such other powers and must perform such other duties as are devolved upon him by law.

Amended by Chapter 38, 1993 General Session

67-1-1.5 Gubernatorial appointment powers.

- (1) As used in this section:
 - (a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.

- (b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:
 - (i) works full-time performing managerial and administrative functions;
 - (ii) is appointed by the governor with the consent of the Senate.
- (c)
 - (i) "Executive branch policy position" means any person other than a person filling an executive branch management position, who is appointed by the governor with the consent of the Senate.
 - (ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the consent of the Senate.
- (2)
 - (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for consent no later than three months after the day on which the vacancy occurs.
 - (b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:
 - (i) the nomination is considered rejected; and
 - (ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.
- (3)
 - (a) Whenever a vacancy occurs in any executive branch management position, the governor may either:
 - (i) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or
 - (ii) appoint an interim manager who does not meet the qualifications of the vacant position and submit that person's name to the Senate for consent as interim manager within one month of the appointment.
 - (b) If the Senate fails to consent to the interim manager appointed under Subsection (3)(a)(ii) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:
 - (i) the nomination is considered rejected; and
 - (ii) the governor may:
 - (A)
 - (I) reappoint the interim manager to whom the Senate failed to consent within 30 days; and
 - (II) resubmit the name of the person described in Subsection (3)(b)(ii)(A)(I) to the Senate for consent as interim manager; or
 - (B) appoint a different interim manager under Subsection (3)(a).
 - (c) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:
 - (i) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or
 - (ii) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.
 - (d) If the Senate fails to consent to a nominee whose name is submitted under Subsection (3)(c)
 - (ii) within 30 days after the day on which the governor submits the name to the Senate:

- (i) the nomination is considered rejected; and
 - (ii) the governor shall:
 - (A)
 - (I) reappoint the person described in Subsection (3)(d); and
 - (II) resubmit the name of the person described in Subsection (3)(d) to the Senate for consent as interim manager; or
 - (B) appoint a different interim manager in the manner required by Subsection (3)(a).
- (4) The governor may not make a temporary appointment to fill a vacant executive branch policy position.
- (5)
 - (a) Before appointing any person to serve as a board member, the governor shall ask the person whether or not the person wishes to receive per diem, expenses, or both for serving as a board member.
 - (b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.
- (6) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

Amended by Chapter 355, 2010 General Session

67-1-2 Sending list of gubernatorial nominees to Senate and to Office of Legislative Research and General Counsel.

- (1) Unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel:
- (a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and
 - (b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.
- (2) When the governor makes a judicial appointment, the governor shall immediately provide to the president of the Senate and the Office of Legislative Research and General Counsel:
- (a) the name of the judicial appointee; and
 - (b) the judicial appointee's:
 - (i) resume;
 - (ii) complete file of all the application materials the governor received from the Judicial Nominating Commission; and
 - (iii) any other related documents, including any letters received by the governor about the appointee, unless the letter specifically directs that it may not be shared.
- (3) The governor shall inform the president of the Senate and the Office of Legislative Research and General Counsel of the number of letters withheld pursuant to Subsection (2)(b)(iii).
- (4)
 - (a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission shall be classified as private in accordance with Section 63G-2-302.
 - (b) All other records received from the governor pursuant to this Subsection (4) may be classified as private in accordance with Section 63G-2-302.
- (5) The Senate shall consent or refuse to give its consent to the nomination or judicial appointment.

Amended by Chapter 382, 2008 General Session

67-1-2.5 Data bases for executive boards.

- (1) As used in this section, "executive board" means any executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government.
- (2) The governor shall designate a person from his staff to maintain a computerized data base containing information about all executive boards.
- (3) The person designated to maintain the data base shall ensure that the data base contains:
 - (a) the name of each executive board;
 - (b) the statutory or constitutional authority for the creation of the executive board;
 - (c) the sunset date on which each executive board's statutory authority expires;
 - (d) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;
 - (e) the name, address, gender, telephone number, and county of each person currently serving on the executive board, along with a notation of all vacant or unfilled positions;
 - (f) the title of the position held by the person who appointed each member of the executive board;
 - (g) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;
 - (h) whether or not members appointed to the executive board require consent of the Senate;
 - (i) the organization, interest group, profession, local government entity, or geographic area that the person represents, if any;
 - (j) the person's party affiliation, if the statute or executive order creating the position requires representation from political parties;
 - (k) whether the executive board is a policy board or an advisory board;
 - (l) whether or not the executive board has or exercises rulemaking authority; and
 - (m) any compensation and expense reimbursement that members of the executive board are authorized to receive.
- (4) The person designated to maintain the data base shall:
 - (a) make the information contained in the data base available to the public upon request; and
 - (b) cooperate with other entities of state government to publish the data or useful summaries of the data.
- (5)
 - (a) The person designated to maintain the data base shall prepare, publish, and distribute an annual report by December 1 of each year that includes, as of November 1 of that year:
 - (i) the total number of executive boards;
 - (ii) the name of each of those executive boards and the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;
 - (iii) for each state officer and each department and division, the total number of executive boards under the jurisdiction of or affiliated with that officer, department, and division;
 - (iv) the total number of members for each of those executive boards;
 - (v) whether or not some or all of the members of each of those executive boards are approved by the Senate;

- (vi) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and
 - (vii) the compensation, if any, paid to the members of each of those executive boards.
- (b) The person designated to maintain the data bases shall distribute copies of the report to:
- (i) the governor;
 - (ii) the president of the Senate;
 - (iii) the speaker of the House;
 - (iv) the Office of Legislative Research and General Counsel; and
 - (v) any other persons who request a copy of the annual report.

Amended by Chapter 176, 2002 General Session

67-1-3 Removal of gubernatorial appointee.

- (1) Any time during a recess of the Legislature, the governor may remove any gubernatorial appointee for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (2) If the appointment required consent of the Senate, the governor may fill the vacancy created by the removal by following the procedures and requirements of Section 67-1-1.5.

Amended by Chapter 176, 2002 General Session

67-1-4 Records to be kept.

The governor must cause to be kept the following records:

- (1) An account of all his official expenses and disbursements, including the incidental expenses of his department, and an account of all rewards offered by him for the apprehension of criminals and persons charged with crime.
- (2) A register of all appointments made by him, with dates of commissions and names of appointees and predecessors.

No Change Since 1953

67-1-5 Commissioning officers.

The governor must commission all officers of the militia, and all officers appointed by the governor or by the governor with the consent of the Senate.

No Change Since 1953

67-1-6 Acting governor -- Powers and duties.

Every provision of law relating to the powers and duties of the governor, and relating to acts and duties to be performed by others toward him, extends to the person performing, for the time being, the duties of governor.

No Change Since 1953

67-1-8.1 Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.

- (1) The Legislature finds and declares that:

- (a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and
 - (b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.
- (2) As used in this section:
- (a) "Executive residence" includes the:
 - (i) Thomas Kearns Mansion;
 - (ii) Carriage House building; and
 - (iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building.
 - (b) "Commission" means the Executive Residence Commission established in this section.
- (3)
- (a) An Executive Residence Commission is established to make recommendations to the State Building Board for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.
 - (b) The commission shall meet at least once a year and make any recommendations to the State Building Board prior to August 1 of each year.
- (4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:
- (a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;
 - (b) three additional private citizens appointed by the governor with the following background:
 - (i) an interior design professional with a background in historic spaces;
 - (ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and
 - (iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;
 - (c) the director, or director's designee, of the Division of Art and Museums;
 - (d) the director, or director's designee, of the Division of State History; and
 - (e) the executive director, or executive director's designee, of the Department of Administrative Services.
- (5)
- (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.
 - (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (6)
- (a) The governor shall appoint a chair from among the membership of the commission.
 - (b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.
- (7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;

- (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (9) The Division of Facilities and Construction Management shall provide the administrative support to the commission.

Amended by Chapter 218, 2011 General Session

67-1-9 Governor's residence -- Sources of funds.

- (1) The Kearns' mansion shall be the official residence of the governor.
- (2) The building board may apply for, accept and expend funds from federal and other sources for carrying out the purposes of Section 67-1-8.1 and this section.

Amended by Chapter 9, 2001 General Session

67-1-10 Spouse of the governor -- Status as state employee.

The spouse of the governor of the state, when acting as a representative of this state, shall be considered a state employee.

Enacted by Chapter 70, 1985 General Session

67-1-11 Gender balance in appointing board members.

- (1) As used in this section, "appointing authority" means the speaker of the House, the president of the Senate, the governor, the governor's designee, nominating committee, or executive branch officer or other body empowered by statute or rule to make any appointment or nomination for appointment to any board, committee, bureau, commission, council, panel, or other entity.
- (2) In making a nomination, appointment, or reappointment to fill a vacancy on any board, committee, bureau, commission, council, or other entity, the appointing authority shall strongly consider nominating, appointing, or reappointing a qualified individual whose gender is in the minority on that entity.

Enacted by Chapter 302, 1992 General Session

67-1-12 Displaced defense workers.

- (1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):
 - (a) Department of Defense employees within the state who lose their employment because of reductions in defense spending by the federal government;
 - (b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and
 - (c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.
- (2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:
 - (a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;

- (b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;
- (c) provide for retraining, upgraded services, and programs at applied technology centers, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;
- (d) aid public or private entities that provide assistance in locating new employment;
- (e) inform the public of assistance programs available for persons who have lost their employment;
- (f) increase funding for assistance and retraining programs;
- (g) provide assistance for small start-up companies owned or operated by persons who have lost their employment;
- (h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and
- (i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:
 - (i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;
 - (ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;
 - (iii) identifying and coordinating needs in different geographic areas;
 - (iv) coordinating training and retraining centers;
 - (v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;
 - (vi) facilitating the development of local and national awareness and support for Utah defense installations;
 - (vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and
 - (viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.
- (3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with applied technology centers, public institutions of higher learning, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

Amended by Chapter 269, 1999 General Session

67-1-14 Information technology.

The governor shall review the executive branch strategic plan submitted to the governor by the chief information officer in accordance with Section 63F-1-203.

Amended by Chapter 169, 2005 General Session

67-1-15 Approval of international trade agreement -- Consultation with Utah International Trade Commission.

Before binding the state or giving the federal government consent to bind the state to an international trade agreement the Governor shall consult with the Utah International Trade Commission.

Enacted by Chapter 362, 2006 General Session

67-1-16 Reservation of area for governor.

(1) As used in this section:

- (a) "Architectural integrity" means the architectural elements, materials, color, and quality of the original building construction.
- (b) "Capitol hill" means the grounds, monuments, parking areas, buildings, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard, and includes:
 - (i) the White Community Memorial Chapel and its grounds and parking areas, and the Council Hall Travel Information Center building and its grounds and parking areas;
 - (ii) the Daughters of the Utah Pioneers building and its grounds and parking areas and other state-owned property included within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;
 - (iii) the state-owned property included within the area bounded by Columbus Street, Wall Street, and 400 North Street; and
 - (iv) the state-owned property included within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.
- (c) "Governor area" means the chambers, rooms, hallways, lounges, parking lots, and parking garages designated by this section as being subject to governor control.
- (d) "House Building" means the west building on capitol hill that is located northwest of the State Capitol and southwest of the State Office Building.
- (e) "Legislative area" means the buildings, chambers, rooms, hallways, lounges, parking lots, and parking garages designated by this section as being subject to legislative control.
- (f) "Senate Building" means the east building on capitol hill that is located northeast of the State Capitol and southeast of the State Office Building.
- (g) "State Capitol" means the building dedicated as the Utah State Capitol in 1916.
- (h) "State Capitol Preservation Board" or "board" is as created in Section 63C-9-201.

(2) The governor area on capitol hill includes:

- (a) in the State Capitol:
 - (i) on the second floor: the entire floor including the stairways and elevators on the east and west side of the second floor, except:
 - (A) the area reserved for the attorney general and the state auditor;
 - (B) the committee room on the northeast side which is to be controlled and scheduled as provided in Subsection 36-5-1(2)(a)(iii);
 - (C) the conference room on the south side, east of the southeast stairway, which is to be scheduled through the State Capitol Preservation Board;
 - (D) the Gold Room, which is to be controlled by the governor and the Legislature and scheduled by the governor, with the governor being given scheduling priority; and the maintenance of the Gold Room shall be by the State Capitol Preservation Board at the direction of the governor;
 - (E) the public restrooms;
 - (F) the grand staircases;
 - (G) the public stairways;

- (H) the public elevators;
- (I) the Capitol Rotunda;
- (J) the kitchen to the east of the dignitary protection elevator and pantry area which kitchen is to be scheduled and maintained by the State Capitol Preservation Board, with the governor's and Legislature's use associated with the Gold Room to be given scheduling priority; and
- (K) the open areas:
 - (I) east of the Rotunda to the doors of the Capitol Board Room;
 - (II) south of the Rotunda to the south entrance to the State Capitol; and
 - (III) north of the Rotunda to the north wall;
- (ii) on the first floor: all office areas, conference rooms, stairways, and elevators, excluding the public corridors, public stairways, and public elevators:
 - (A) west of the south entrance to the State Capitol on the first floor, including the dignitary holding area and elevator, which area and elevator the Legislature may schedule through the Utah Highway Patrol Dignitary Protection Bureau; but excluding the storage area that is directly to the north of the dignitary holding area;
 - (B) west of the public elevator on the north side of the first floor; and
 - (C) the northwest pier storage area; and
- (iii) in the basement:
 - (A) the audio/video control rooms on the southwest side of the State Capitol are shared space with the Legislature as provided in Section 36-5-1;
 - (B) all areas west of the westernmost hall and bordered by a hall on the north and a hall on the south of the areas, including the stairs and elevator, secured parking and all entrances and exits to the secured parking, and the Utah Highway Patrol Dignitary Protection Bureau office space, and excluding the areas north and south of the area designated in this Subsection (2) as the governor area;
- (b) in the Senate Building:
 - (i) all office areas and conference rooms on the third floor that are south of the south stairway; and
 - (ii) the Utah Highway Patrol Dignitary Protection Bureau office space in the basement;
- (c)
 - (i) 46 of the parking stalls in the underground parking facility known as Lot C located directly east of the State Capitol; and
 - (ii) 52 of the parking stalls in the underground parking facility known as Lot E located directly east of the Senate Building; and
- (d) any other area designated by the State Capitol Preservation Board as the governor area.
- (3) The governor area is reserved for the use and occupancy of the governor and lieutenant governor and their staff, committees, and functions.
- (4) The data centers in the Senate Building and State Capitol which are associated with the governor, lieutenant governor, or their staff space are the responsibility of the governor, and the maintenance of these data centers shall be by the State Capitol Preservation Board at the direction of the governor.
- (5) The governor shall exercise complete jurisdiction over the governor area, except for the following, which are the responsibility of the State Capitol Preservation Board:
 - (a) the architectural integrity of the governor area, including:
 - (i) restored historic architectural or design features;
 - (ii) historic color schemes, decorative finishes, and stenciling;
 - (iii) decorative light fixtures; and

- (iv) flooring;
 - (b) control of the central mechanical and electrical core of the Senate Building and State Capitol on all floors;
 - (c) control of the enclosure of the Senate Building and State Capitol from the exterior of the building to the interior of the exterior wall;
 - (d) the roof of the Senate Building and State Capitol;
 - (e) the utility and security tunnels between the underground parking structure and the Senate Building and State Capitol;
 - (f) public restrooms of the Senate Building and State Capitol;
 - (g) maintenance of all the elevators and stairways in the Senate Building and State Capitol; and
 - (h) those functions the governor delegates in writing to be performed by the State Capitol Preservation Board.
- (6) The responsibility for the communications centers in the Senate Building and State Capitol is as provided in Subsection 36-5-1(6).
- (7) The State Capitol Preservation Board shall schedule and manage the Capitol Board Room on the second floor of the State Capitol.
- (a) The governor's and lieutenant governor's use of the Capitol Board Room for functions shall be given scheduling priority over other meetings, except as provided in Subsection (7)(b). If the governor or lieutenant governor has need for the Capitol Board Room that has already been scheduled by another person, the governor or lieutenant governor shall be given the Capitol Board Room and as much notice as possible shall be given to the other person scheduling the room so that person may seek an alternative site.
 - (b) During a general session or special session of the Legislature or on interim committee days designated by the Legislative Management Committee, a legislator's use of the Capitol Board Room for functions shall be given scheduling priority over any meeting, including the governor's or lieutenant governor's use under Subsection (7)(a). If a legislator has need for the Capitol Board Room and it has already been scheduled by another person, the legislator shall be given the Capitol Board Room and as much notice as possible shall be given to the other person scheduling the room so that person may seek an alternative site.
 - (c) When the Legislature is not in session and on non interim committee days, a legislator's use of the Capitol Board Room for functions shall be given scheduling priority over any meeting, other than the governor's or lieutenant governor's use under Subsection (7)(a). If a legislator has need for the Capitol Board Room and it is not being used as provided in Subsection (7)(a), the legislator shall be given the Capitol Board Room and as much notice as possible shall be given to the other person scheduling the room so that person may seek an alternative site.
 - (d) When not being used for a governor, lieutenant governor, or legislative function, the Capitol Board Room may be scheduled by the State Capitol Preservation Board on a first-come, first-served basis:
 - (i) by other executive or judicial branch entities; and
 - (ii) by a public or private person or organization who complies with State Capitol Preservation Board rules for Capitol Hill Complex Facility use.

Enacted by Chapter 10, 2008 General Session

Chapter 1a

Lieutenant Governor

67-1a-1 Intent of Legislature.

It is the intent of the Legislature to emphasize the significant responsibilities and duties assigned to the lieutenant governor of the state. As the second highest official of the state, the lieutenant governor is next in command of the executive department in the event of death, removal, resignation, or disability of the governor. The assignment of important responsibilities to the lieutenant governor is essential to the continuity of state government and for the effective use of funds appropriated to the office of lieutenant governor.

Amended by Chapter 9, 2001 General Session

67-1a-2 Duties enumerated.

(1) The lieutenant governor shall:

- (a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:
 - (i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;
 - (ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;
 - (iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;
 - (iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;
 - (v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and
 - (vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;
- (b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;
- (c) serve as the chief election officer of the state as required by Subsection (2);
- (d) keep custody of the Great Seal of Utah;
- (e) keep a register of, and attest, the official acts of the governor;
- (f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and
- (g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2)

- (a) As the chief election officer, the lieutenant governor shall:
 - (i) exercise general supervisory authority over all elections;
 - (ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;
 - (iii) assist county clerks in unifying the election ballot;
 - (iv)

- (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and
 - (B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;
 - (v) receive and answer election questions and maintain an election file on opinions received from the attorney general;
 - (vi) maintain a current list of registered political parties as defined in Section 20A-8-101;
 - (vii) maintain election returns and statistics;
 - (viii) certify to the governor the names of those persons who have received the highest number of votes for any office;
 - (ix) ensure that all voting equipment purchased by the state complies with the requirements of Subsection 20A-5-302(2) and Sections 20A-5-402.5 and 20A-5-402.7;
 - (x) conduct the study described in Section 67-1a-14;
 - (xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:
 - (A) voting on election day;
 - (B) early voting;
 - (C) the transmittal or voting of an absentee ballot or military-overseas ballot;
 - (D) the counting of an absentee ballot or military-overseas ballot; or
 - (E) the canvassing of election returns; and
 - (xii) perform other election duties as provided in Title 20A, Election Code.
 - (b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.
- (3)
- (a) The lieutenant governor shall:
 - (i)
 - (A) determine a new city's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a City, based on the city's population using the population estimate from the Utah Population Estimates Committee; and
 - (B)
 - (I) prepare a certificate indicating the class in which the new city belongs based on the city's population; and
 - (II) within 10 days after preparing the certificate, deliver a copy of the certificate to the city's legislative body;
 - (ii)
 - (A) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:
 - (I) each official census or census estimate of the United States Bureau of the Census; or
 - (II) the population estimate from the Utah Population Estimates Committee, if the population of a municipality is not available from the United States Bureau of the Census; and
 - (B)
 - (I) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

- (II) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body;
- (iii)
 - (A) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Estimates Committee; and
 - (B) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body; and
- (iv) monitor the population of each municipality using population information from:
 - (A) each official census or census estimate of the United States Bureau of the Census; or
 - (B) the population estimate from the Utah Population Estimates Committee, if the population of a municipality is not available from the United States Bureau of the Census.
- (b) If the applicable population figure under Subsection (3)(a)(ii) or (iv) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:
 - (i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and
 - (ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.
- (c)
 - (i) If the applicable population figure under Subsection (3)(a)(ii) or (iv) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.
 - (ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:
 - (A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and
 - (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Amended by Chapter 352, 2015 General Session

67-1a-2.2 Residences in more than one district -- Lieutenant governor to resolve.

- (1) If, in reviewing a map generated from a redistricting block assignment file, the lieutenant governor determines that a single-family or multi-family residence is within more than one Congressional, Senate, House, or State Board of Education district, the lieutenant governor may, by January 31, 2012, and in consultation with the Automated Geographic Reference Center, determine the district to which the residence is assigned.
- (2) In order to make the determination required by Subsection (1), the lieutenant governor shall review the block assignment file and other Bureau of the Census data and obtain and review other relevant data such as aerial photography or other data about the area.

- (3) Upon making the determination authorized by this section, the lieutenant governor shall notify county clerks affected by the determination and the Automated Geographic Reference Center created under Section 63F-1-506.

Enacted by Chapter 9, 2011 Special Session 3

Enacted by Chapter 9, 2011 Special Session 3

67-1a-2.5 Fees of lieutenant governor.

In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the lieutenant governor shall receive and determine fees pursuant to Section 63J-1-504 for the following:

- (1) for a copy of any law, resolution, record, or other document or paper on file in the lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act;
- (2) for affixing certificate and the Great Seal of the state, except on documents filed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act;
- (3) for each commission signed by the governor, except that no charge may be made for commissions to public officers serving without compensation;
- (4) for each warrant of arrest issued by the governor and attested by the lieutenant governor upon the requisition of any other state or territory;
- (5) for recording miscellaneous papers or documents;
- (6) for filing any paper or document not otherwise provided for; and
- (7) for searching records and archives of the state, except that no member of the Legislature or other state or county officer may be charged for any search relative to matters appertaining to the duties of the member or officer's office or for a certified copy of any law or resolution relative to the member or officer's official duties passed by the Legislature.

Amended by Chapter 183, 2009 General Session

67-1a-3 Employment of personnel.

The lieutenant governor, with the approval of the governor, may employ personnel necessary to carry out the duties and responsibilities of his office.

Enacted by Chapter 68, 1984 General Session

67-1a-5 Budget proposal.

The lieutenant governor shall prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature for the fiscal year following the convening of the Legislature in annual general session.

Amended by Chapter 21, 1985 General Session

67-1a-6 Designation as secretary of state -- Duties.

- (1) When required by local, state, federal, or international law, the lieutenant governor is hereby designated the secretary of state of Utah and shall perform the duties and functions required by

such laws, including attesting or certifying documents, recording or filing laws, documents, and other papers; and receiving appointments for service of legal process as provided by law.

- (2) Any reference in the laws of the state to the office of the secretary of state is a reference to the office of lieutenant governor.

Enacted by Chapter 68, 1984 General Session

67-1a-6.5 Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

- (1) As used in this section:

(a) "Applicable certificate" means:

- (i) for the impending incorporation of a city, town, local district, conservation district, or incorporation of a local district from a reorganized special service district, a certificate of incorporation;
- (ii) for the impending creation of a county, school district, special service district, community development and renewal agency, or interlocal entity, a certificate of creation;
- (iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;
- (iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;
- (v) for the impending consolidation of multiple local entities, a certificate of consolidation;
- (vi) for the impending division of a local entity into multiple local entities, a certificate of division;
- (vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and
- (viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Automated Geographic Reference Center created under Section 63F-1-506.

(f) "Community development and renewal agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

(i) "Local district" has the same meaning as defined in Section 17B-1-102.

(j) "Local entity" means a county, city, town, school district, local district, community development and renewal agency, special service district, conservation district, or interlocal entity.

(k) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(l) "Special service district" has the same meaning as defined in Section 17D-1-102.

- (2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a)

(i) issue the applicable certificate, if:

- (A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

- (B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;
- (ii) send the applicable certificate to the local entity's approving authority;
- (iii) return the original of the approved final local entity plat to the local entity's approving authority;
- (iv) send a copy of the applicable certificate and approved final local entity plat to:
 - (A) the State Tax Commission;
 - (B) the center; and
 - (C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and
- (v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:
 - (A) the incorporation or creation of a new local entity;
 - (B) the consolidation of multiple local entities;
 - (C) the division of a local entity into multiple local entities; or
 - (D) the dissolution of a local entity; or
- (b)
 - (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:
 - (A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or
 - (B) the notice of an impending boundary action is:
 - (I) not accompanied by an approved final local entity plat; or
 - (II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and
 - (ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.
- (3) Each notice of an impending boundary action shall:
 - (a) be directed to the lieutenant governor;
 - (b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;
 - (c) describe the type of boundary action for which an applicable certificate is sought;
 - (d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and
- (e)
 - (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or
 - (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.
- (4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.
- (5)
 - (a) The lieutenant governor shall:

- (i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;
 - (ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;
 - (iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and
 - (iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.
- (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

Amended by Chapter 42, 2013 General Session

Amended by Chapter 371, 2013 General Session

67-1a-6.7 Certification of local entity name change.

- (1) As used in this section:
- (a) "Approving authority" means the person or body authorized under statute to approve the local entity's name change.
 - (b) "Center" has the same meaning as defined in Section 67-1a-6.5.
 - (c) "Certificate of name change" means a certificate issued by the lieutenant governor certifying a local entity's change of name.
 - (d) "Local entity" has the same meaning as defined in Section 67-1a-6.5.
 - (e) "Notice of an impending name change" means a notice, as described in Subsection (3), that provides notice of a local entity's impending name change.
- (2) Within 10 days after receiving a notice of an impending name change, the lieutenant governor shall:
- (a) issue a certificate of name change;
 - (b) send the certificate of name change to the approving authority of the local entity whose name is being changed; and
 - (c) send a copy of the certificate of name change to:
 - (i) the State Tax Commission;
 - (ii) the state auditor;
 - (iii) the center; and
 - (iv) the county assessor, county surveyor, county auditor, and county attorney of each county in which any part of the local entity is located.
- (3) Each notice of an impending name change shall:
- (a) be directed to the lieutenant governor;
 - (b) contain the current name of the local entity;
 - (c) state the name to which the local entity intends to change;
 - (d) identify each county in which any part of the local entity is located; and
 - (e) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the name change have been met.
- (4)
- (a) The lieutenant governor shall:
 - (i) keep, index, maintain, and make available to the public each notice of an impending name change, certificate of a name change, and other document that the lieutenant governor receives or generates under this section;

- (ii) make a copy of each document listed in Subsection (4)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;
 - (iii) furnish a paper copy of any of the documents listed in Subsection (4)(a)(i) to any person who requests a paper copy; and
 - (iv) furnish a certified copy of any of the documents listed in Subsection (4)(a)(i) to any person who requests a certified copy.
- (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (4).

Enacted by Chapter 350, 2009 General Session

67-1a-7 Use and custody of great seal.

Except as otherwise provided by law, the lieutenant governor, or the lieutenant governor's designee, is authorized to use or affix the Great Seal of this state to any document whatever and only in pursuance of law, and is responsible for its safekeeping. Any person who illegally uses the Great Seal of this state, or such seal when defaced, is guilty of a felony.

Enacted by Chapter 68, 1984 General Session

67-1a-8 Form and contents of great seal.

The Great Seal of the State of Utah shall be 2-1/2 inches in diameter, and of the following device: the center a shield and perched thereon an American eagle with outstretching wings; the top of the shield pierced by six arrows crosswise; under the arrows the motto "Industry"; beneath the motto a beehive, on either side growing sego lilies; below the beehive the figures "1847"; and on each side of the shield an American flag; encircling all, near the outer edge of the seal, beginning at the lower left-hand portion, the words "The Great Seal of the State of Utah," with the figures "1896" at the base.

Enacted by Chapter 68, 1984 General Session

67-1a-10 Commission on Civic and Character Education -- Membership -- Chair -- Expenses.

- (1) There is created within the lieutenant governor's office the Commission on Civic and Character Education.
- (2) The commission consists of seven members appointed as follows:
- (a) the lieutenant governor, as chief election officer of the state, or a designee;
 - (b) one member of the House of Representatives, appointed by the speaker of the House;
 - (c) one member of the Senate, appointed by the president of the Senate;
 - (d) one member of the State Board of Education, appointed by the chair;
 - (e) one member of the State Board of Regents, appointed by the chair;
 - (f) one member of the public with expertise in the area of civic and character education appointed by the other members of the commission to serve for a two year term; and
 - (g) one justice of the Supreme Court or one appellate court judge appointed by the Supreme Court.
- (3)
- (a) The lieutenant governor shall serve as chairperson or if the lieutenant governor is unable to serve, the commission shall annually elect a chairperson from its membership.
 - (b) The commission shall hold meetings as needed to carry out its duties. A meeting may be held on the call of the chair or a majority of the commission members.

- (c) Three commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.
- (4)
 - (a) An appointed commission member shall be appointed for a two-year term or until their successors are appointed.
 - (b) When a vacancy occurs in the appointed membership for any reason, the replacement shall be appointed for the unexpired term.
- (5)
 - (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (6) The duties of the lieutenant governor's office shall include leadership of the commission.
- (7) The funding of the commission shall be a separate line item to the lieutenant governor's office in the annual appropriations act.

Amended by Chapter 387, 2014 General Session

67-1a-11 Commission on Civic and Character Education -- Duties and responsibilities.

The commission shall:

- (1) promote supportive coalitions and collaborative efforts to develop public awareness, and training regarding the provisions of Section 53A-13-109 in recognition that the cultivation of a continuing understanding and appreciation of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state; and
- (2) provide leadership to the state's continuous focus on civic and character education in the public schools and institutions of higher education and make recommendations to local school boards and school administrators.

Enacted by Chapter 142, 2006 General Session

67-1a-12 Authority to administer oaths.

The lieutenant governor and personnel employed under Section 67-1a-3, who are designated by the lieutenant governor, may administer oaths when necessary in the performance of official duties.

Enacted by Chapter 5, 2008 General Session

67-1a-13 Certification restrictions.

The lieutenant governor may not certify a signature of a notary or county recorder on:

- (1) a document that is not properly notarized, if notarization is required; or
- (2) a document regarding:
 - (a) allegiance to a government or jurisdiction;
 - (b) sovereignty;

- (c) in itinere status or world service authority; or
- (d) a claim similar to a claim listed in Subsections (2)(a) through (c).

Enacted by Chapter 333, 2010 General Session

67-1a-14 Study of signing a petition online -- Report.

- (1) As used in this section, "petition" means a petition to:
 - (a) qualify a ballot proposition for the ballot under Title 20A, Chapter 7, Issues Submitted to the Voters;
 - (b) organize and register a political party under Title 20A, Chapter 8, Political Party Formation and Procedures; or
 - (c) qualify a candidate for the ballot under Title 20A, Chapter 9, Candidate Qualifications and Nominating Procedures.
- (2) The lieutenant governor, in consultation with a county clerk and municipal clerk, shall study a way that a registered voter may sign a petition on the Internet and receive information about the petition on the Internet.
- (3) The study shall evaluate:
 - (a) how to sign a petition on the Internet using a holographic signature that is in an electronic format maintained by a government agency;
 - (b) the security, development, ownership, management, format, and content of a secure Internet portal or website on which a registered voter may sign a petition;
 - (c) the security measures necessary to:
 - (i) verify the identity of a registered voter who signs a petition on the Internet; and
 - (ii) insure the integrity of a signature;
 - (d) changes to the process of collecting, verifying, and certifying a signature, if the signature is collected on the Internet;
 - (e) whether verification is necessary for signatures collected on the Internet;
 - (f) which election official should be responsible for the certification of signatures collected on the Internet;
 - (g) whether signatures on a petition should be public information;
 - (h) the removal process of a signature collected on the Internet;
 - (i) what percentage of signatures should be collected on the Internet or in person, statewide or by Senate district;
 - (j) what information regarding the petition should be available on the secure Internet portal or website, including who may submit the information and by what deadline information should be submitted;
 - (k) the time the lieutenant governor, county clerk, or municipal clerk may spend certifying a petition if a registered voter is allowed to sign a petition on the Internet;
 - (l) the processes, if any, that exists in other states to allow a registered voter to sign a petition on the Internet; and
 - (m) any other issue related to allowing a registered voter to sign a petition on the Internet.
- (4) The lieutenant governor shall submit a copy of the study and recommendations, if any, that result from the study to the Government Operations Interim Committee on or before September 18, 2013.

Enacted by Chapter 35, 2012 General Session

Chapter 3

Auditor

67-3-1 Functions and duties.

- (1)
 - (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.
 - (b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.
- (2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:
 - (a) the condition of the state's finances;
 - (b) the revenues received or accrued;
 - (c) expenditures paid or accrued;
 - (d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and
 - (e) the cash balances of the funds in the custody of the state treasurer.
- (3)
 - (a) The state auditor shall:
 - (i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;
 - (ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;
 - (iii) as the auditor determines is necessary, conduct the audits to determine:
 - (A) honesty and integrity in fiscal affairs;
 - (B) accuracy and reliability of financial statements;
 - (C) effectiveness and adequacy of financial controls; and
 - (D) compliance with the law.
 - (b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.
 - (c)
 - (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.
 - (ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.
 - (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.
- (4)
 - (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

- (i) the honesty and integrity of all its fiscal affairs;
 - (ii) whether or not its administrators have faithfully complied with legislative intent;
 - (iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;
 - (iv) whether or not its programs have been effective in accomplishing the intended objectives; and
 - (v) whether or not its management, control, and information systems are adequate, effective, and secure.
- (b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:
 - (i) has an elected auditor; and
 - (ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.
- (5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.
- (6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.
- (7) The state auditor shall:
 - (a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:
 - (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
 - (ii) all debtors of the state;
 - (b) collect and pay into the state treasury all fees received by the state auditor;
 - (c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;
 - (d) stop the payment of the salary of any state official or state employee who:
 - (i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;
 - (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or
 - (iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;
 - (e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
 - (f) superintend the contractual auditing of all state accounts;
 - (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; and
 - (h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1.
- (8)

- (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.
- (b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:
 - (i) shall provide a recommended timeline for corrective actions; and
 - (ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and
 - (iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.
- (c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.
- (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:
 - (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;
 - (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and
 - (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:
 - (A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or
 - (B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.
- (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).
- (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.
- (10) Notwithstanding Subsection (7)(g), (7)(h), (8)(b), or (8)(d) the state auditor:
 - (a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the disbursement is necessary to:
 - (i) avoid a major disruption in the operations of the state or local taxing or fee-assessing unit; or
 - (ii) meet debt service obligations; and
 - (b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the state auditor determines is appropriate.
- (11) The state auditor shall:
 - (a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and
 - (b) ensure that those guidelines and procedures provide assurances to the state that:

- (i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;
 - (ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;
 - (iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and
 - (iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.
- (12) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.
- (13)
 - (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.
 - (b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:
 - (i) designate how that work shall be audited; and
 - (ii) provide additional funding for those audits, if necessary.
- (14) The state auditor shall:
 - (a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:
 - (i) prepare a Uniform Accounting Manual for Local Districts that:
 - (A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;
 - (B) conforms with generally accepted accounting principles; and
 - (C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;
 - (ii) maintain the manual under Subsection (14)(a) so that it continues to reflect generally accepted accounting principles;
 - (iii) conduct a continuing review and modification of procedures in order to improve them;
 - (iv) prepare and supply each district with suitable budget and reporting forms; and
 - (v) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and
 - (b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.
- (15)
 - (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

- (i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;
 - (ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;
 - (iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;
 - (iv) records that would disclose an outline or part of any audit survey plans or audit program; and
 - (v) requests for audits, if disclosure would risk circumvention of an audit.
- (b) The provisions of Subsections (15)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.
- (c) The provisions of this Subsection (15) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.
- (d)
- (i) As used in this Subsection (15)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.
 - (iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (15)(d)(ii), as provided in Section 63G-2-404.
- (16) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

Amended by Chapter 174, 2015 General Session

67-3-1.5 Fees of state auditor.

The state auditor shall receive the following fees:

For a copy of any paper filed or recorded in his office, 20 cents per folio.

For affixing certificate, with or without seal, \$1.

For filing any paper not otherwise provided for, \$1.

Renumbered and Amended by Chapter 46, 2001 General Session

67-3-2 Right to compel accounting by, and state accounts with, all collectors of state money -- Escheats.

Whenever any person has received money, or has money or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management or disbursement of any money, bonds, or interest accruing thereon, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the state auditor within the time prescribed by law, or, when no particular time is specified, fails to render such account and make settlement, or who fails to pay into the state treasury any money belonging to the state, upon being required so to do by the state auditor, within 20 days after such requisition, the state auditor must state an account with such person, charging 25% damages, and interest at the rate of 10% per annum from the time of failure; a copy of such account in any suit thereon shall be prima facie evidence of the things therein stated. In case the state auditor cannot, for want of information, state such an account, he may in any action brought by him aver the fact, and allege generally the amount of money or other property which is due to or which belongs to the state.

No Change Since 1953

67-3-3 Disbursements of public funds -- Suspension of disbursements -- Procedure upon suspension.

The state auditor shall have the power to suspend any disbursement of public funds whenever in his opinion such disbursement is contrary to law, and if the validity of any such disbursement be not established within six months from the date of original suspension then the matter shall be referred to the attorney general for appropriate action and if in his opinion the suspension was justified he shall immediately notify the auditor, who shall forthwith make demand upon the surety of the disbursing or certifying officer, and it shall be mandatory upon the surety immediately to meet the demand and to pay into the state treasury by certified check or legal tender any amount or amounts disbursed and involved in the suspension.

All suspensions shall be in writing and the state auditor shall prepare a form to be known as the notice of suspension. The form shall contain complete information as to the payment suspended, the reason for the suspension and the amount of money involved and any other information that will clearly establish identification of the payment. The original of the suspension notice shall be retained by the state auditor and one copy shall be served upon the disbursing or certifying officer, one copy upon any member of the finance commission, one copy upon the surety of the disbursing or certifying officer, and one copy shall be attached to the document under suspension. Receipts entered upon the original suspension notice held by the state auditor shall be taken from the disbursing or certifying officer, the finance commission and the surety, except that the copy to the surety company may be mailed in which case so doing will constitute legal service.

Immediately upon any suspension becoming final the finance commission shall cause an entry to be made debiting the disbursing or certifying officer with the amount of money involved in any suspension notice and shall credit the account originally charged by the payment. Upon release of final suspension by the state auditor a reversing entry shall be made crediting the disbursing or certifying officer, and like credit shall be given in all recoveries from the surety.

No Change Since 1953

67-3-4 Appropriations not to be diverted from purposes.

No appropriation and no surplus of any appropriation shall be diverted from any account to any other account, except as provided by law, and the money appropriated, or so much as may be necessary, shall be applied to the payment of the item for which the appropriation is made and nothing else.

No Change Since 1953

67-3-5 Right of visitation and examination.

For the purpose of carrying out the duties of the state auditor, the state auditor shall have access to all offices of public entities during business hours for the inspection of their records, regardless of any general limitation on access to records provided in an entity's individual statute.

Amended by Chapter 78, 2003 General Session

67-3-6 Seal.

The state auditor shall adopt a seal and shall file a description and an impression thereof with the Division of Archives.

Amended by Chapter 67, 1984 General Session

67-3-8 Preparation and distribution of budget forms.

The state auditor shall formulate and print budget forms for all cities, all counties, and all school districts. These budget forms shall be distributed at cost to each city, county, and school district.

Amended by Chapter 292, 2003 General Session

Chapter 4 Treasurer

67-4-1 Duties.

(1) The state treasurer shall:

- (a) receive and maintain custody of all state funds;
- (b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
- (c) pay warrants drawn by the Division of Finance as they are presented;
- (d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;
- (e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;
- (f) account for all money received and disbursed;
- (g) keep separate account of the different funds;

- (h) keep safe all bonds, warrants, and securities delivered into his custody;
 - (i) at the request of either house of the Legislature, or of any legislative committee, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;
 - (j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;
 - (k) authenticate and validate documents when necessary;
 - (l) adopt a seal and file a description and an impression of it with the Division of Archives; and
 - (m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah.
- (2) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.

Amended by Chapter 14, 1998 General Session

67-4-2 Definitions.

As used in this chapter:

- (1) "Federal funds" means cash received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.
- (2) "General Fund" means money received into the treasury and not specially appropriated to any other fund.
- (3) "Maintain custody" means to direct the safekeeping and investment of state funds.
- (4)
 - (a) "State entity" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
 - (b) "State entity" includes independent state agencies and public corporations.
- (5)
 - (a) "State funds" means funds that are owned, held, or administered by a state entity, regardless of the source of the funds.
 - (b) "State funds" includes funds of independent state agencies or public corporations, regardless of the source of funds.
 - (c) "State funds" does not include funds held by the Utah State Retirement Board or the Workers' Compensation Fund.
- (6) "Warrant" means an order in a specific amount drawn upon the treasurer by the Division of Finance or another state agency.

Amended by Chapter 222, 2000 General Session

67-4-3 Warrants upon state treasurer -- Legislative policy.

It is the legislative purpose in the enactment of this measure to make uniform the laws of the state of Utah with respect to the preparation, issuance and drawing of warrants upon the state treasurer.

No Change Since 1953

67-4-10 Official bond.

- (1) The state treasurer, within 30 days after taking office, shall give to the state a surety-company bond in a sum to be determined by the State Money Management Council.
- (2) The state shall pay the premium of the surety-company bond.

Amended by Chapter 14, 1998 General Session

67-4-11 Delict of treasurer -- Duties of auditor and governor -- Suspension.

- (1) The state auditor shall notify the governor if the state auditor examines the books of the state treasurer, and finds that:
 - (a) the books do not correspond with the amount of funds on hand;
 - (b) the books do not show the actual condition of the funds;
 - (c) money belonging to the state has been embezzled, diverted, or in any manner taken from the treasury without authority of law; or
 - (d) the state treasurer has been guilty of negligence in keeping the books or in taking care of the public money.
- (2) Upon receipt of the notice, the governor shall:
 - (a) take possession of all books, money, papers, and other property belonging to the state in the possession of the state treasurer; and
 - (b) temporarily suspend the state treasurer from office.
- (3)
 - (a) The state auditor shall:
 - (i) examine the books, papers, and all matters connected with the office of the suspended state treasurer; and
 - (ii) notify the governor of the findings.
 - (b) If, based upon the examination, the auditor concludes that the state treasurer has embezzled or converted to personal use the public money, or has been negligent in keeping the books, or in taking care of the public money, the governor shall appoint another person to replace the suspended state treasurer.
 - (c) The new state treasurer shall execute an official bond, and enter upon the office of state treasurer, as provided by law.
 - (d) The governor shall report all of the acts done under this section to the Legislature.
- (4) The new state treasurer shall hold office until the suspended state treasurer is restored or until his successor is elected and qualified.

Amended by Chapter 342, 2011 General Session

67-4-15 Insurance protection for funds, warrants and securities.

The state treasurer shall procure such insurance protecting the funds, warrants and securities in his custody against loss from such causes and in such amounts as the Commission of Finance may from time to time determine. The cost of such insurance shall be paid out of the fund for the protection of which it is carried.

No Change Since 1953

67-4-16 State financial advisor -- Duties -- Conflict of interest restrictions.

- (1) The state treasurer may hire a state financial advisor on a fee-for-service basis.

- (2) The state financial advisor shall advise the state treasurer, the executive director of the Governor's Office of Management and Budget, the director of the Division of Finance, the director of the Division of Facilities Construction and Management, and the Legislature and its staff offices on the issuance of bonds and other debt, and on all other public debt matters generally.
- (3) The financial advisor may assist in the preparation of the official statement, represent the state's creditworthiness before credit rating agencies, and assist in the preparation, marketing, or issuance of public debt.
- (4)
 - (a) The state financial advisor or the firm that the advisor represents may not negotiate to underwrite debt issued by the state of Utah for which he has provided financial advisor services.
 - (b) The state financial advisor may enter a competitive bid, either for his own account or in cooperation with others, in response to a call for public bids for the sale of state debt.
- (5)
 - (a) Fees directly related to the preparation, marketing, or issuance of public debt, including ordinary and necessary expenses, may be paid from the debt proceeds.
 - (b) Fees for other services shall be paid from the state treasurer's budget.

Amended by Chapter 310, 2013 General Session

67-4-17 Federal/state cash transfers.

- (1)
 - (a) The state treasurer and the Division of Finance shall enter into an agreement with the United States Secretary of the Treasury that establishes procedures and requirements for implementing the United States Cash Management Improvement Act of 1990.
 - (b) The agreement shall stipulate that:
 - (i) the time elapsed between the transfer of funds from the United States Treasury and the redemption of warrants shall be minimized; and
 - (ii) if the state:
 - (A) deposits federal funds before the time funds are paid out of the state treasury for the redemption of warrants issued for federal programs, the Division of Finance may pay to the United States Treasury, out of interest earnings on the funds, an interest amount as required by federal regulation; or
 - (B) disburses its own funds for federal programs, the Division of Finance shall bill the federal government for interest from the time state funds are paid out to redeem warrants until the federal funds are received.
- (2) To the degree allowed by federal regulation, all direct costs of calculating the interest may be:
 - (a) deducted from any interest payments made to the United States Treasury; or
 - (b) included in any billings to the United States Treasury.

Enacted by Chapter 195, 1991 General Session

Chapter 4a
Unclaimed Property Act

Part 1 General Provisions

67-4a-101 Title.

This act may be cited as the "Unclaimed Property Act."

Enacted by Chapter 198, 1995 General Session

67-4a-102 Definitions.

As used in this chapter:

- (1) "Administrator" means the deputy state treasurer assigned by the state treasurer to administer the law governing unclaimed property in Utah.
- (2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
- (3)
 - (a) "Bank draft" means a check, draft, or similar instrument on which a banking or financial organization is directly liable.
 - (b) "Bank draft" includes:
 - (i) a cashier's check; and
 - (ii) a certified check.
 - (c) "Bank draft" does not include:
 - (i) a traveler's check; or
 - (ii) a money order.
- (4) "Banking organization" means:
 - (a) a bank;
 - (b) an industrial bank;
 - (c) a trust company;
 - (d) a savings bank; or
 - (e) any organization defined by other law as a bank or banking organization.
- (5) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including:
 - (a) a banking organization;
 - (b) a financial organization;
 - (c) an insurance company; or
 - (d) a utility.
- (6) "Cashier's check" means a check that:
 - (a) is drawn by a banking organization on itself;
 - (b) is signed by an officer of the banking organization; and
 - (c) authorizes payment of the amount shown on its face to the payee.
- (7) "Class action" means a legal action:
 - (a) certified by the court as a class action; or
 - (b) treated by the court as a class action without being formally certified as a class action.
- (8)
 - (a) "Deposit in a financial institution" means a demand, savings, or matured time deposit with a banking or financial organization.
 - (b) "Deposit in a financial institution" includes:

- (i) any interest or dividends on a deposit; and
 - (ii) a deposit that is automatically renewable.
- (9) "Domicile" means:
 - (a) the state of incorporation of a corporation; and
 - (b) the state of the principal place of business of an unincorporated person.
- (10) "Financial organization" means:
 - (a) a savings and loan association; or
 - (b) a credit union.
- (11) "Gift card" means a payment device such as a plastic card that:
 - (a) is usable at:
 - (i) a single merchant;
 - (ii) an affiliated group of merchants; or
 - (iii) multiple, unaffiliated merchants;
 - (b) contains a means for the electronic storage of information including:
 - (i) a microprocessor chip;
 - (ii) a magnetic stripe; or
 - (iii) a bar code;
 - (c) is prefunded before it is used, whether or not money may be added to the payment device after it is used; and
 - (d) is redeemable for goods or services.
- (12) "Government entity" means:
 - (a) the state;
 - (b) an administrative unit of the state;
 - (c) a political subdivision of the state;
 - (d) an administrative unit of a political subdivision of the state; or
 - (e) an officer or employee of an entity described in Subsections (12)(a) through (d).
- (13) "Holder" means a person, wherever organized or domiciled, who is:
 - (a) in possession of property belonging to another;
 - (b) a trustee;
 - (c) indebted to another on an obligation; or
 - (d) charged with the duty of paying or delivering intangible property under Section 67-4a-302.
- (14) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, that is engaged in providing insurance coverage, including:
 - (a) accident insurance;
 - (b) burial insurance;
 - (c) casualty insurance;
 - (d) credit life insurance;
 - (e) contract performance insurance;
 - (f) dental insurance;
 - (g) fidelity insurance;
 - (h) fire insurance;
 - (i) health insurance;
 - (j) hospitalization insurance;
 - (k) illness insurance;
 - (l) life insurance, including endowments and annuities;
 - (m) malpractice insurance;
 - (n) marine insurance;

- (o) mortgage insurance;
 - (p) surety insurance; and
 - (q) wage protection insurance.
- (15)
- (a) "Intangible property" includes:
 - (i) money, a check, a draft, a deposit in a financial institution, interest, a dividend, and income;
 - (ii) a credit balance, a customer overpayment, a security deposit, a refund, unpaid wages, an unused airline ticket, and an unidentified remittance;
 - (iii) a stock, a mutual fund, and other intangible ownership interests in a business association;
 - (iv) money deposited to redeem a stock, bond, or coupon, and other securities or to make a distribution;
 - (v) a bond, note, and any other debt obligation;
 - (vi) an amount due and payable under the terms of an insurance policy;
 - (vii) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits; and
 - (viii) an amount distributable from a mineral interest in land.
 - (b) "Intangible property" does not include patronage capital of an electric, telephone, and agricultural cooperative.
- (16) "Last-known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
- (17) "Mineral" means oil, gas, uranium, sulphur, lignite, coal, and any other substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the oil, gas, uranium, sulphur, lignite, coal, or other substance is found.
- (18) "Mineral proceeds" includes:
- (a) all obligations to pay resulting from the production and sale of minerals, including:
 - (i) net revenue interest;
 - (ii) royalties;
 - (iii) overriding royalties;
 - (iv) production payments; and
 - (v) joint operating agreements; and
 - (b) all obligations for the acquisition and retention of a mineral lease, including:
 - (i) bonuses;
 - (ii) delay rentals;
 - (iii) shut-in royalties; and
 - (iv) minimum royalties.
- (19)
- (a) "Money order" means a negotiable draft issued by a business association for which the business association is not directly liable.
 - (b) "Money order" does not mean a cashier's check.
- (20) "Net intangible property" means intangible property that is held, issued, or owing in the ordinary course of a holder's business:
- (a) plus any income or increment derived from the intangible property; and
 - (b) less any lawful charges.
- (21) "Owner" means:
- (a) a depositor in the case of a deposit;
 - (b) a beneficiary in the case of a trust other than a deposit in trust;
 - (c) a creditor, claimant, or payee in the case of other intangible property; or

- (d) a person or that person's legal representative having a legal or equitable interest in property subject to this chapter.
- (22)
- (a) "Ownership purchase funds" means any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization.
 - (b) "Ownership purchase funds" includes any interest or dividends paid on those funds.
- (23) "Person" means:
- (a) an individual;
 - (b) a business association;
 - (c) a government entity;
 - (d) a public corporation;
 - (e) a public authority;
 - (f) an estate;
 - (g) a trust;
 - (h) two or more persons having a joint or common interest; or
 - (i) any other legal or commercial entity.
- (24) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.
- (25) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for:
- (a) the transmission of communications, including cable television; or
 - (b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Amended by Chapter 218, 2010 General Session

67-4a-103 General rules for taking custody of intangible unclaimed property.

- (1) Unless otherwise provided in this chapter or by other statute, the state of Utah may take custody of intangible property if the property is considered abandoned according to the standards established in Part 2, Standards for Determining When Property Is Abandoned or Unclaimed, and:
- (a) the last-known address, as shown on the records of the holder, of the apparent owner is in Utah;
 - (b) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in Utah;
 - (c) the records of the holder do not reflect the last-known address of the apparent owner and it is established that:
 - (i) the last-known address of the person entitled to the property is in Utah; or
 - (ii) the holder is a domiciliary or a government or governmental subdivision or agency of Utah and has not previously paid or delivered the property to the state of the last-known address of the apparent owner or other person entitled to the property;
 - (d) the last-known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of Utah;
 - (e) the last-known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of Utah; or

- (f) the transaction out of which the property arose occurred in Utah and:
 - (i) the holder is domiciled in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and
 - (ii) the last-known address of the apparent owner or other person entitled to the property is:
 - (A) unknown; or
 - (B) in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.
- (2) The expiration, before or after the effective date of this chapter, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being considered abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this chapter.

Enacted by Chapter 198, 1995 General Session

Part 2

Standards for Determining When Property Is Abandoned or Unclaimed

67-4a-201 Abandoned and unclaimed property -- General rules.

- (1)
 - (a) Property is considered to be "abandoned" or "unclaimed" when:
 - (i) the property is held, issued, or owing by a holder;
 - (ii) the identity, status, or present location of the apparent owner is unknown; and
 - (iii) the property cannot be paid, distributed, or given to the apparent owner after the stated dormancy period for that type of unclaimed property established in this chapter.
 - (b) Property may not be considered to be "abandoned" or "unclaimed" when:
 - (i) the character or degree of ownership interest of the apparent owner in the property is unsettled or in dispute; and
 - (ii) the holder is notified of this fact.
- (2)
 - (a) For purposes of this section, property is payable or distributable even if the owner has failed to demand the property or to present any instrument or document required to receive payment.
 - (b) Except as otherwise provided by this chapter, net intangible property is considered abandoned if it is not claimed by the owner within three years after it became payable or distributable.

Amended by Chapter 18, 2007 General Session

67-4a-202 Traveler's checks and money orders.

- (1) Except as provided in Subsection (4), any sum payable on a traveler's check that has been outstanding for more than 15 years after its issuance is considered abandoned unless the owner, within the 15 years, has communicated in writing with the issuer concerning it or

otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

- (2) Except as provided in Subsection (4), any sum payable on a money order that has been outstanding for more than seven years after its issuance is considered abandoned unless the owner, within the seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.
- (3) A holder may not deduct from the amount of a traveler's check or money order any charge imposed because of the failure to present the instrument for payment unless:
 - (a) there is a valid and enforceable written contract between the issuer and the owner of the instrument that authorizes the issuer to impose a charge; and
 - (b) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.
- (4) The state may not claim custody of a sum payable on a traveler's check or money order described in Subsections (1) and (2) as unclaimed property unless:
 - (a) the records of the issuer show that the traveler's check or money order was purchased in Utah;
 - (b) the issuer has its principal place of business in Utah and the records of the issuer do not show the state in which the traveler's check or money order was purchased; or
 - (c) the issuer has its principal place of business in Utah, the records of the issuer show the state in which the traveler's check or money order was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.
- (5) Notwithstanding any other provision of this chapter, Subsection (4) applies to sums payable on traveler's checks or money orders considered abandoned on or after May 2, 1994.

Enacted by Chapter 198, 1995 General Session

67-4a-203 Checks, drafts, and similar instruments issued or certified by banking and financial organizations.

- (1) Any sum payable on a bank draft that has been outstanding for more than three years after it was payable or after its issuance, if payable on demand, is considered abandoned unless the owner, within three years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.
- (2) A holder may not deduct from the amount of a bank draft any charge imposed because of the failure to present the instrument for payment unless:
 - (a) there is a valid and enforceable written contract between the issuer and the owner of the instrument that authorizes the issuer to impose a charge; and
 - (b) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.

Amended by Chapter 18, 2007 General Session

67-4a-204 Deposits in a financial institution and funds in financial organizations.

- (1) Each deposit in a financial institution and any ownership purchase funds held by a banking or financial organization are considered abandoned after three years if the location of the owner is unknown, unless:

- (a) the owner, within the three years, has:
 - (i) in the case of a deposit in a financial institution, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
 - (ii) communicated in writing with the banking or financial organization concerning the property; and
 - (iii) otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
- (b)
 - (i) the owner, within three years, has owned other property to which Subsection (1)(a)(i), (ii), or (iii) applies; and
 - (ii) the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be considered abandoned at the address to which communications regarding the other property regularly are sent; or
- (c)
 - (i) the owner, within three years, has had another relationship with the banking or financial organization concerning which the owner has communicated in writing with the banking or financial organization; and
 - (ii) the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be considered abandoned at the address to which communications regarding the other relationship regularly are sent.
- (2) A holder may not impose any charge due to dormancy or inactivity or cease payment of interest on any property described in Subsection (1) unless:
 - (a) the holder is specifically exempted by federal law; or
 - (b)
 - (i) there is a valid and enforceable written contract between the issuer and the owner of the instrument that authorizes the issuer to impose a charge; and
 - (ii) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.
- (3)
 - (a) Except as provided in Subsection (3)(b), any property described in Subsection (1) that is automatically renewable is considered matured for purposes of Subsection (1) when its initial time period expires.
 - (b) If the owner consents to any renewal at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is considered matured for purposes of Subsection (1) when the last time period for which consent was given expires.
 - (c) If, at the time provided for delivery in Section 67-4a-302, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

Amended by Chapter 18, 2007 General Session

67-4a-205 Funds owing under life insurance policies.

- (1) Funds held or owing under any life or endowment insurance policy or annuity contract that has terminated or matured as defined in Subsection (3)(a) or (3)(b) are considered abandoned if unclaimed for more than three years.

- (2) The insurance company shall presume that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company if:
 - (a) a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company; or
 - (b) it is not definite and certain from the records of the company who is entitled to the funds.
- (3) For purposes of this section, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds are due and payable if the company:
 - (a) knows that the insured or annuitant has died; or
 - (b) determines that:
 - (i) the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;
 - (ii) the policy was in force at the time the insured attained, or would have attained, the limiting age specified under Subsection (3)(b)(i); and
 - (iii) according to the records of the company, neither the insured nor any other person appearing to have an interest in the policy has, within the last two years:
 - (A) assigned, readjusted, or paid premiums on the policy;
 - (B) subjected the policy to a loan;
 - (C) corresponded in writing with the company concerning the policy; or
 - (D) otherwise indicated an interest in the policy as evidenced by a memorandum or other record on file prepared by an employee of the company.
- (4) For purposes of this section, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under Subsection (1) if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the policy before the depletion of the cash surrender value of the policy by the application of those provisions.

Amended by Chapter 18, 2007 General Session

67-4a-206 Deposits held by utilities.

A deposit, including any interest on it, made by a subscriber with a utility to secure payment and any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is considered abandoned.

Enacted by Chapter 198, 1995 General Session

67-4a-207 Refunds and payments resulting from judicial or administrative proceedings.

- (1) The sum to be paid as a refund, under an order or decision of a court or administrative agency or by agreement, that remains outstanding for more than one year after it became payable is considered abandoned unless the apparent owner has communicated in writing with the holder concerning that sum within the preceding six months.
- (2) Any sum payable or intangible property distributable in the course of a voluntary or involuntary dissolution or liquidation that remains unclaimed for one year after the date of the final distribution or liquidation is considered abandoned unless the apparent owner has communicated in writing with the holder concerning that sum or distribution within the preceding six months.

- (3) Intangible property payable or distributable to a member of or participant in a class action that remains unclaimed for more than one year after the time for the final payment or distribution is considered abandoned, unless the apparent owner has communicated in writing with the holder concerning the property within the preceding six months.
- (4) Intangible property payable or distributable as the result of litigation or settlement of a dispute before a judicial or administrative body that remains unclaimed for more than one year after the time for the final payment or distribution is considered abandoned unless the apparent owner has communicated in writing concerning the property within the preceding six months.

Enacted by Chapter 198, 1995 General Session

67-4a-208 Stock and other intangible interests in business associations.

- (1) Any stock, shareholding, or other intangible ownership interest in a business association that is evidenced by records available to the association is considered abandoned if:
 - (a) the interest in the association is owned by a person who for more than three years has failed to:
 - (i) claim a dividend, distribution, or other sum payable as a result of the interest; or
 - (ii) communicate with the association regarding the interest or a dividend, distribution, or other sum payable as the result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association; and
 - (b) the association does not know the location of the owner at the end of the three-year period.
- (2) The return of official shareholder notifications or communications by the postal service as undeliverable is evidence that the association does not know the location of the owner.
- (3) This section applies to:
 - (a) the underlying stock, shareholdings, or other intangible ownership interests of an owner;
 - (b) any stock, shareholdings, or other intangible ownership interest of an owner when the business association is in possession of the certificate or other evidence of ownership; and
 - (c) the stock, shareholdings, or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.
- (4) At the time an interest is considered abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously considered abandoned, is considered abandoned.
- (5)
 - (a) This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless:
 - (i) the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not communicated in any manner described in this section within three years; or
 - (ii) three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those three years communicated in any manner described in this section.
 - (b) The three-year period from the return of official shareholder notifications or communications begins at the earlier of the return of the second of those notifications or communications or the time the holder discontinues mailings to the shareholder.

Amended by Chapter 18, 2007 General Session

67-4a-209 Property held by agents and fiduciaries.

- (1) All intangible property, and any income or increment derived from it, that is held in a fiduciary capacity for the benefit of another person is considered abandoned unless the owner has, within three years after it has become payable or distributable:
 - (a) increased or decreased the principal;
 - (b) accepted payment of principal or income;
 - (c) communicated concerning the property; or
 - (d) otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.
- (2)
 - (a) As used in this section, "distribution date" means the earliest of:
 - (i) the actual date of distribution or attempted distribution;
 - (ii) the date contracted for distribution in the plan or trust agreement governing the account or plan; or
 - (iii) the date specified in the internal revenue law of the United States by which distribution must begin in order to avoid a tax penalty.
 - (b) All intangible property and any income or increment derived from it that is held in an individual retirement account, a retirement plan for self-employed individuals, or similar account or plan established under the internal revenue laws of the United States that has not been paid or distributed for more than 90 days after the distribution date is considered abandoned unless the owner or beneficiary has, within three preceding years:
 - (i) made additional payments or transfers of property to the account or plan;
 - (ii) been paid or received a distribution;
 - (iii) communicated concerning the property; or
 - (iv) otherwise indicated an interest as evidenced by a memorandum or other record on file with the account or plan fiduciary.
- (3) For the purpose of this section, a person who holds property as an agent for a business association is considered to hold the property in a fiduciary capacity for that business association alone, unless the agreement between him and the business association provides otherwise.
- (4) For the purposes of this section, a person who is considered to hold property in a fiduciary capacity for a business association alone is the holder of the property only for the interest of the business association in the property, and the business association is the holder of the property for the interest of any other person in the property.

Amended by Chapter 18, 2007 General Session

67-4a-210 Property held by courts and public agencies.

- (1) Any intangible property held by the executive, legislative, or judicial branch of the United States government, or a state or a county or municipal subdivision of a state, or any of their authorities, agencies, instrumentalities, administrations, services, or other organizations that remains unclaimed for more than one year after it became payable or distributable is considered abandoned.
- (2) Property held, issued, or owing by the court is payable or distributable if:
 - (a) the court has notified all persons whose names appear on the records of the court as having an unadjudicated claim to the property that the property is being held subject to the claim; and
 - (b) no claim is made, or property remains after all claims are resolved.

- (3) A claim filed under Section 67-4a-501 for property reported by the court to the administrator under this Section may be referred to the court for adjudication of the claim.

Amended by Chapter 156, 2005 General Session

67-4a-211 Gift certificates -- Credit memos -- Gift cards.

Notwithstanding that one or more of the following remain unreconsidered, it may not be considered abandoned for purposes of this chapter:

- (1) a gift certificate;
- (2) a gift card; or
- (3) a credit memo.

Amended by Chapter 343, 2009 General Session

67-4a-212 Wages.

Unpaid wages, bonuses, and commissions, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than one year after becoming payable are considered abandoned.

Enacted by Chapter 198, 1995 General Session

67-4a-213 Contents of safe deposit box or other safekeeping repository.

All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and all proceeds resulting from the sale of the property permitted by other law that remain unclaimed by the owner for more than five years after the lease or rental period on the box or other repository has expired are considered abandoned.

Enacted by Chapter 198, 1995 General Session

67-4a-214 Mineral proceeds.

- (1)
 - (a) Any sum payable as mineral proceeds that has remained unclaimed by the owner for more than three years after it became payable or distributable is considered abandoned.
 - (b) The owner's underlying right to receive those mineral proceeds is considered abandoned when any sum payable as mineral proceeds has remained unclaimed by the owner for more than three years.
- (2) At the time an owner's underlying right to receive mineral proceeds is considered abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that time are considered abandoned.
- (3) The sum considered abandoned is subject to the custody of this state as unclaimed property if:
 - (a) the last-known address of the apparent owner, as shown on the records of the holder, is in Utah;
 - (b) the records of the holder do not identify the last-known address and it is established that the last-known address of the apparent owner is in Utah;
 - (c) the records of the holder do not reflect the last-known address, and the holder is domiciled in or is a government or governmental subdivision or agency of Utah; or
 - (d) the mineral interest is located in Utah and:

- (i) the last-known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or is in a state in which the state's escheat or unclaimed property law is not applicable to the property; or
 - (ii) the last-known address of the apparent owner is unknown and the holder is domiciled in a state that does not provide by law for the escheat or custodial taking of the property or a state in which the state escheat or unclaimed property law is not applicable to the property.
- (4) A holder may not deduct from mineral proceeds any charge due to dormancy unless there is an enforceable written contract between the holder and the owner of the mineral proceeds under which the holder may impose a charge.

Amended by Chapter 18, 2007 General Session

Part 3

Procedures for Reporting and Submitting Abandoned or Unclaimed Property

67-4a-301 Report of abandoned property -- Notice.

- (1)
 - (a) A person holding tangible or intangible property that is considered abandoned and subject to the state's custody as abandoned or unclaimed property under this chapter shall:
 - (i) file a report concerning the property with the administrator before November 1 of each year as of the preceding June 30 containing the information required by this section; and
 - (ii) transfer the property identified in the report, including all interest, dividends, increments, and accretions due, payable, or distributable on the property as of November 1 of the year in which the report is required to the administrator as required by Section 67-4a-302.
 - (b) The administrator may postpone the reporting date if he receives a written request to extend the time of the report from any person required to file a report.
- (2)
 - (a) The report shall include:
 - (i) except with respect to traveler's checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property with a value of \$50 or more that is considered abandoned under requirements of this chapter;
 - (ii) for unclaimed funds of \$50 or more held or owing under any insurance policy or annuity contract, the full name and last-known address of the insured policy owner or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;
 - (iii) for the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and any amounts owing to the holder;
 - (iv) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;
 - (v) the date the property became payable, demandable, or returnable and the date of the last transaction with the apparent owner with respect to the property;
 - (vi) a verification by the person completing the report that the information contained in it is true and accurate;
 - (vii) all known names and addresses of each previous holder of the property if:

- (A) the person holding property considered abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner; or
- (B) the holder has changed a name while holding the property; and
- (viii) other information required by the administrator.
- (b) When reporting the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, items of value under \$50 each may be reported in the aggregate.
- (3) Not more than 120 days before filing the report required by this section, the holder in possession of property considered abandoned and subject to the state's custody as unclaimed property under this chapter shall send written notice to the apparent owner at that owner's last-known address informing the owner that the holder is in possession of property subject to this chapter if:
 - (a) the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate; or
 - (b) the property has a value of \$50 or more.

Amended by Chapter 18, 2007 General Session

67-4a-302 Payment or delivery of abandoned property.

- (1)
 - (a) Each person holding property considered abandoned and subject to the state's custody as unclaimed property shall pay or deliver to the administrator all of the property shown on the report required by this part.
 - (b) The administrator may:
 - (i) postpone the payment or delivery of the property if requested by the person holding the property; and
 - (ii) impose terms and for payment and delivery upon the person holding the property.
 - (c) If the administrator authorizes postponement of payment or delivery of the property, the property paid or delivered to the administrator shall include all interest, dividends, increments and accretions due, payable, or distributable on the day that the property is paid or delivered to the administrator.
- (2)
 - (a) The holder of stocks and other intangible interests under Section 67-4a-208 shall issue and deliver or transmit to the administrator a duplicate certificate, or other evidence of ownership if the holder does not issue certificates of ownership, including an electronic book entry registered in the name prescribed by the state treasurer.
 - (b) Upon delivery of a duplicate certificate or transmittance of a book entry to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate or other evidence of ownership is relieved of all liability in accordance with Section 67-4a-303 to every person, including any person acquiring the original certificate or the duplicate certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery of the duplicate certificate or other evidence of ownership to the administrator.
- (3)
 - (a) When a certificate or other evidence of ownership, or a bond or other debt security, registered in the name of a person is delivered to the administrator according to the procedures and

requirements of this chapter and is presented by the administrator to the issuer or the issuer's agent, the issuer shall:

- (i) transfer and register it in the name as prescribed by the state treasurer; and
- (ii) deliver a new certificate or security registered in that name to the administrator.
- (b) The issuer and its transfer agent, registrar, or other person acting on behalf of the issuer in executing and delivering the certificate or security is relieved from any liability to any person in accordance with Section 67-4a-303 for any loss or damage caused by the transfer, issuance, and delivery of the certificate or security to the administrator.
- (4)
 - (a) A holder, with the written consent of the administrator and upon conditions and terms prescribed by the administrator, may report and deliver property before the property is considered abandoned under this chapter.
 - (b) Property delivered under this Subsection (4) is presumed abandoned.
 - (c) The administrator shall advertise and dispose of the property according to the requirements of this chapter.

Amended by Chapter 18, 2007 General Session

67-4a-303 Custody by state -- Holder relieved from liability -- Reimbursement of holder paying claim -- Reclaiming for owner -- Defense of holder -- Payment of safe deposit box or repository charges.

- (1) As used in this section, "good faith" means that:
 - (a) payment or delivery of the property to the administrator was made in a reasonable attempt to comply with this chapter;
 - (b) the person delivering the property:
 - (i) was not a fiduciary in breach of trust in respect to the property at the time of delivery; and
 - (ii) had a reasonable basis for believing that the property was abandoned for the purposes of this chapter, based on the facts known to the person at the time of delivery; and
 - (c) there is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry.
- (2)
 - (a) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property.
 - (b) A person who pays or delivers property to the administrator in good faith is, to the extent of the value of the property paid or delivered, relieved of all liability for:
 - (i) any existing claim to the property; and
 - (ii) any claim to the property that may arise later.
 - (c) Upon the payment or delivery of property to the administrator, the person who pays or delivers the property is not liable for interest.
- (3)
 - (a)
 - (i) A holder who has paid money to the administrator according to the procedures and requirements of this chapter may:
 - (A) pay any person appearing to the holder to be entitled to payment; and
 - (B) file a request for reimbursement with the administrator that establishes proof of payment and proof that the payee was entitled to payment.
 - (ii) The administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge.

- (b) If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the administrator shall reimburse the holder for the payment if the administrator has received proof that:
 - (i) the instrument was presented; and
 - (ii) payment was made to a person who appeared to the holder to be entitled to payment.
- (4) A holder who has delivered any property other than money, including a certificate of any interest in a business association, to the administrator according to the procedures and requirements of this chapter may reclaim the property if it is still in the possession of the administrator, without paying any fee or other charge, by filing proof that the owner has claimed the property from the holder.
- (5) The administrator may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.
- (6) If, after a holder has paid or delivered property to the administrator in good faith, another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator shall, upon written notice of the claim:
 - (a) defend the holder against the claim; and
 - (b) indemnify the holder against any liability on the claim.
- (7) The administrator takes possession of property removed from a safe deposit box or other safekeeping repository subject to:
 - (a) the holder's right to be reimbursed for the actual cost of the opening of the box or repository; and
 - (b) any valid lien or contract in favor of the holder that provides for the holder to be reimbursed for unpaid rent, storage, or any other charges that are reasonable and related.

Enacted by Chapter 198, 1995 General Session

Part 4

Disposition of Abandoned or Unclaimed Property in the Administrator's Custody

67-4a-401 Amount recoverable by owner.

Whenever property is paid or delivered to the administrator under this act, the owner may receive from the administrator the principal amount turned over to the state.

Enacted by Chapter 198, 1995 General Session

67-4a-402 Publication of notice.

Within 12 months of the date the unclaimed property was paid or delivered to the administrator, the administrator shall:

- (1) cause a notice to be published:
 - (a) once in a newspaper having general circulation in Utah; and
 - (b) as required in Section 45-1-101; and
- (2) ensure that the notice described in Subsection (1)(a) is in a form that is likely to attract the attention of the apparent owner of the unclaimed property.

Amended by Chapter 388, 2009 General Session

67-4a-403 Disposition of abandoned property -- Sale.

- (1)
- (a) Except as provided in Subsections (2) and (3), the administrator shall:
 - (i) within three years after the receipt of abandoned property, sell the property to the highest bidder at a public sale, which may include sale via the Internet; and
 - (ii) if the sale is held at a specified physical location, publish notice of the sale:
 - (A) in a newspaper of general circulation in this state at least three weeks before the sale; and
 - (B) in accordance with Section 45-1-101 for at least three weeks before the sale.
 - (b) The administrator may hold the sale in whatever city in Utah he believes will provide the most favorable market for the property.
 - (c) The administrator may decline the highest bid and reoffer the property for sale if the bid is insufficient.
 - (d) If the administrator determines that the probable cost of sale exceeds the value of the property, the administrator need not offer the property for sale.
 - (e) When any person makes a claim, the administrator shall provide the person with:
 - (i) the property delivered by the holder to the administrator; or
 - (ii) the proceeds received from the sale.
 - (f) The administrator may, in the administrator's discretion, deduct reasonable fees and expenses incurred from the sale.
- (2)
- (a) The administrator shall sell:
 - (i) securities listed on an established stock exchange at prices prevailing at the time of sale on the exchange; and
 - (ii) securities not listed on an established stock exchange:
 - (A) over-the-counter at prices prevailing at the time of sale; or
 - (B) by any other method the administrator considers to be in the best interest of the state.
 - (b) The administrator may sell securities upon receipt.
 - (c) When any person makes a claim, the administrator shall provide the person with:
 - (i) the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator; or
 - (ii) the proceeds received from the sale.
 - (d) The administrator may, in the administrator's discretion, deduct reasonable fees and expenses incurred from the sale.
 - (e) A person making a claim under this section may not make any claim against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.
- (3)
- (a) The purchaser of any property at any sale conducted by the administrator under the authority of this chapter takes the property free of all claims of the owner or previous holder of the property and of all persons claiming through or under them.
 - (b) The administrator shall execute all documents necessary to complete the transfer of ownership.

Amended by Chapter 388, 2009 General Session

67-4a-404 Disposition of abandoned property -- Destruction.

- (1)
 - (a) If, after an investigation, the administrator determines that any property delivered under this chapter has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property at any time.
 - (b) The administrator shall keep a public record of all destroyed property, identifying the property and the date and nature of the disposition.
- (2) The state, any officer or employee of the state, and the holder are immune from suit for or on account of any action taken by the administrator under this section.

Enacted by Chapter 198, 1995 General Session

67-4a-405 Deposit of funds.

- (1)
 - (a) There is created a private-purpose trust fund entitled the "Unclaimed Property Trust Fund."
 - (b) The fund consists of all funds received under this chapter, including the proceeds from the sale of abandoned property.
 - (c) The fund shall earn interest.
- (2) The administrator shall:
 - (a) pay any legitimate claims or deductions authorized by this chapter from the fund;
 - (b) before the end of the fiscal year, estimate the amount of money from the fund which will ultimately be needed to be paid to claimants; and
 - (c) at the end of the fiscal year, transfer any amount in excess of that amount to the Uniform School Fund, except that unclaimed restitution for crime victims shall be transferred to the Crime Victim Reparations Fund.
- (3) Before making any transfer to the Uniform School Fund, the administrator may deduct from the fund:
 - (a) amounts appropriated by the Legislature for administration of this chapter;
 - (b) any costs incurred in connection with the sale of abandoned property;
 - (c) costs of mailing and publication in connection with any abandoned property;
 - (d) reasonable service charges; and
 - (e) costs incurred in examining records of holders of property and in collecting the property from those holders.

Amended by Chapter 339, 2008 General Session

Part 5

Claiming Ownership of Abandoned or Unclaimed Property Held by the Administrator

67-4a-501 Filing of claim with administrator.

- (1) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.
- (2)
 - (a) The administrator shall:
 - (i) consider each claim within 90 days after it is filed; and
 - (ii) give written notice to the claimant if the claim is denied in whole or in part.

- (b) The administrator may give notice by:
 - (i) mailing notice to the last address, if any, stated in the claim as the address to which notices are to be sent; or
 - (ii) if no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim.
 - (c) The administrator need not send notice of denial of the claim if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.
- (3)
- (a) If a claim is allowed, the administrator shall pay to the claimant:
 - (i) the money received from the holder; or
 - (ii) if property has been sold by the administrator, the net proceeds from the sale.
 - (b) If the claim is for property considered abandoned under Section 67-4a-208 that was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.

Enacted by Chapter 198, 1995 General Session

67-4a-502 Claim of another state to recover property -- Procedure.

- (1) At any time after property has been paid or delivered to the administrator under this chapter, another state may recover the property if:
 - (a) the property was subjected to custody by this state because the records of the holder did not reflect the last-known address of the apparent owner when the property was considered abandoned under this chapter, and the other state establishes that:
 - (i) the last-known address of the apparent owner or other person entitled to the property was in that state; and
 - (ii) the property escheated to or was subject to a claim of abandonment by that state;
 - (b) the last-known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;
 - (c) the records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last-known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;
 - (d) the property was subjected to custody by this state and, under the laws of the state of domicile of the holder, the property has escheated to or become subject to a claim of abandonment by that state; or
 - (e) the property is the sum payable on a traveler's check, money order, or other similar instrument that was subjected to custody by this state under Section 67-4a-202, and the instrument was purchased in the other state and, under the laws of that state, the property escheated to or became subject to a claim of abandonment by that state.
- (2) The administrator shall:
 - (a) develop a claim form for use by other states that wish to recover escheated or abandoned property;
 - (b) decide the claim within 90 days after it is presented, using the standards established by this section; and
 - (c) require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

Enacted by Chapter 198, 1995 General Session

Part 6

Duties of All Holders

67-4a-601 Records retention.

- (1) Except as provided in Subsection (2), each holder required to file a report under Part 3, Procedures for Reporting and Submitting Abandoned or Unclaimed Property, shall maintain a record of the name and last-known address of the owner for five years after the date the holder files the report.
- (2) Any business association that sells in this state its traveler's checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

Amended by Chapter 18, 2007 General Session

67-4a-602 Businesses not to circumvent requirements of chapter.

A corporation or business may not, through its articles of incorporation, by-laws, by private agreement, or otherwise, circumvent the unclaimed property process established by this chapter by making a private escheat that would:

- (1) take or divert funds or personal property into income;
- (2) divide funds or personal property among locatable patrons or stockholders;
- (3) place funds or personal property in education or other funds; or
- (4) divert funds or personal property by any other type of appropriation.

Enacted by Chapter 198, 1995 General Session

Part 7

Enforcement

67-4a-701 Examination of records.

- (1)
 - (a) The administrator may examine at reasonable times and upon reasonable notice, the records pertaining to abandoned or unclaimed property of any person, including the records of an agent of a business association or financial association, to determine whether the person has complied with the provisions of this chapter.
 - (b) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, and the unreported amount is more than \$12,500, the administrator:
 - (i) may assess the cost of the examination against the holder at the rate of up to \$200 a day for each examiner; and

- (ii) may not charge more than \$5,000 or 10% of the value of the property found to be reportable and deliverable.
- (2) If a holder fails to maintain the records required by Part 6, Duties of All Holders, and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay whatever amounts can be reasonably estimated from any available records.
- (3) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

Amended by Chapter 18, 2007 General Session

67-4a-702 Enforcement -- Limitation of actions.

- (1) The administrator, for and on behalf of the state of Utah, may begin an action in the district court of the county where the defendant resides or in the district court where the property is located to:
 - (a) obtain an order that certain property is unclaimed and payable or distributable to the administrator;
 - (b) compel presentation of a report or payment or distribution of property to the administrator;
 - (c) enforce the duty of a person to permit the examination or audit of the records of that person;
 - (d) enjoin any act that violates the provisions of this chapter; or
 - (e) enforce any aspect of this chapter in any manner.
- (2) The administrator may begin an action under this section when:
 - (a) the holder is a person domiciled in Utah or is a governmental entity of Utah;
 - (b) the holder is a person engaged in or transacting any business in Utah, although not domiciled in Utah; or
 - (c) the subject matter is tangible personal property held in Utah.
- (3) If a Utah court cannot obtain the personal jurisdiction necessary to pursue an action authorized by this section, the administrator may begin an action authorized by this section in a federal court or state court of another state having jurisdiction over that person.
- (4) The administrator is an indispensable party to any judicial or administrative proceedings concerning the disposition and handling of unclaimed property that is or may be payable or distributable into the protective custody of the administrator.
- (5) The administrator may intervene and participate in any judicial or administrative proceeding when to intervene will:
 - (a) be in the best interest of the state of Utah or the apparent owner of the unclaimed property; or
 - (b) conserve and safeguard the unclaimed property against dissipation, undue diminishment, or adverse discriminatory treatment.
- (6) The administrator may not begin an action or proceeding against any holder more than 10 years after the holder:
 - (a) specifically reported the property to the administrator; or
 - (b) gave notice of a dispute regarding the property to the administrator.

Enacted by Chapter 198, 1995 General Session

67-4a-703 Interest and penalties.

- (1) A person who fails to pay or deliver property within the time required by this chapter shall pay interest to the administrator at the rate of 12% per annum on the property or value of the property from the date the property should have been paid or delivered.
- (2)
 - (a) A person who willfully fails to file any report, or perform a duty required by this chapter, or to pay or deliver property to the administrator as required by this chapter shall pay a civil penalty equal to 20% of the value of the property that should have been paid or delivered.
 - (b) The administrator shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in imposing civil penalties under this section.
- (3)
 - (a) It is unlawful for any person to willfully refuse to pay or deliver property to the administrator after written demand by the administrator as required by this chapter.
 - (b) Any person who violates this Subsection (3) is guilty of a class B misdemeanor.
- (4) The administrator may, in appropriate circumstances:
 - (a) waive the payment of civil penalties;
 - (b) waive the payment of interest; or
 - (c) reduce the amount of the interest.

Amended by Chapter 382, 2008 General Session

67-4a-704 Judicial review.

Any person aggrieved by a decision of the administrator may obtain judicial review.

Enacted by Chapter 198, 1995 General Session

67-4a-705 Certain property recovery agreements unenforceable.

Each agreement to pay compensation to recover or assist in the recovery of property reported under Section 67-4a-301 that is made within 24 months after the date payment or delivery is made under Section 67-4a-302 is unenforceable.

Enacted by Chapter 198, 1995 General Session

Part 8

Cooperation with Other States and Foreign Governments

67-4a-801 Interstate agreements and cooperation -- Joint and reciprocal actions with other states.

- (1)
 - (a) The administrator may enter into agreements with other states to exchange information needed to enable Utah or another state to audit or otherwise determine unclaimed property that Utah or another state may be entitled to subject to a claim of custody.
 - (b) The administrator may:
 - (i) require the reporting of information needed to enable compliance with agreements made under this section; and
 - (ii) prescribe the form for reporting that information.

- (2) The administrator may join with other states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.
- (3) At the request of another state, the attorney general of Utah may bring an action in the name of the administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.
- (4)
 - (a) The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state.
 - (b) The administrator shall pay all expenses including attorney's fees in any action under this subsection.
 - (c) The administrator may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action.
 - (d) The administrator may not deduct any expenses paid under this subsection from the amount that is subject to the claim by the owner under this chapter.

Enacted by Chapter 198, 1995 General Session

67-4a-802 Foreign transactions.

This chapter does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

Enacted by Chapter 198, 1995 General Session

Part 9 Transition Clauses

67-4a-901 Duty to comply with prior law.

- (1) This chapter does not relieve a holder of any duty that arose before the effective date of this chapter to report, pay, or deliver property.
- (2) A holder who did not comply with the prior law is subject to the applicable enforcement and penalty provisions that existed under that law.

Enacted by Chapter 198, 1995 General Session

67-4a-902 Property not subject to reporting under prior law.

The initial report filed under this chapter for property that was not required to be reported under prior law shall include all items of property that are considered abandoned as of the effective date of this chapter.

Enacted by Chapter 198, 1995 General Session

Chapter 5

Attorney General

67-5-1 General duties.

The attorney general shall:

- (1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;
- (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;
- (3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;
- (4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;
- (5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:
 - (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;
 - (b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and
 - (c) deliver this information to the attorney general's successor in office;
- (6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;
- (7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;
- (8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of his duties;
- (9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;
- (10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;
- (11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

- (12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;
- (13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;
- (14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;
- (15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;
- (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;
- (17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;
- (18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;
- (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:
 - (a) health care facilities that receive payments under the state Medicaid program; and
 - (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and
- (20)
 - (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:
 - (i) cost the state more than \$500,000; or
 - (ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and
 - (b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report.

Amended by Chapter 101, 2013 General Session

Amended by Chapter 237, 2013 General Session

67-5-1.5 Special duties -- Employment of staff.

- (1) The attorney general may undertake special duties and projects as follows:
 - (a) employment of child protection services investigators under Section 67-5-16;
 - (b) employment of an Obscenity and Pornography Complaints Ombudsman under Section 67-5-18;
 - (c) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;
 - (d) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;
 - (e) administration of the Identity Theft Reporting Information System (IRIS) Program under Section 67-5-22;

- (f) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24;
 - (g) administration of the Safety Net Initiative as provided under Section 67-5-26; and
 - (h) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.
- (2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Amended by Chapter 350, 2012 General Session

67-5-3 "Agency" defined -- Performance of legal services for agencies -- Billing.

- (1) As used in this act, "agency" means a department, division, agency, commission, board, council, committee, authority, institution, or other entity within the state government of Utah.
- (2)
- (a) The attorney general may assign a legal assistant to perform legal services for any agency of state government.
 - (b) The attorney general shall bill that agency for the legal services performed, if:
 - (i) the agency billed receives federal funds to pay for the legal services rendered; or
 - (ii) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered.
 - (c) An agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered.

Amended by Chapter 258, 2015 General Session

67-5-4 Interaccount billings included in budget -- Payment of staff members.

The attorney general shall include in his annual budget all interaccount billings and pay directly out of his funds all members of his staff, whether housed in his offices or not.

Enacted by Chapter 186, 1973 General Session

67-5-5 Hiring of legal counsel for agencies -- Costs.

Except where specifically authorized by the Utah Constitution, or statutes, no agency shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal counsel for each such agency. Where the Legislature has provided by statute for separate agency counsel, no such counsel may act as an assistant attorney general nor as a special assistant attorney general unless the attorney general shall so authorize. Unless he hires such legal counsel from outside his office, the attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired for an agency, then the costs of any services to be rendered by this counsel shall be approved by the attorney general before these costs are incurred. The attorney general shall approve all billing statements from outside counsel and shall pay the full costs of this counsel unless the agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or proceeds reserved or designated for the payment of legal fees receives from any other source the equivalent cost or a portion thereof, in which case the attorney general may bill the agency for the services; provided, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal service rendered.

Amended by Chapter 76, 1982 General Session

67-5-6 Attorney General Career Service Act -- Citation.

This act shall be known and may be cited as the "Attorney General Career Service Act."

Enacted by Chapter 185, 1973 General Session

67-5-7 Establishment of career service system.

- (1) The purpose of this chapter is to establish a career service system for employees of the Office of the Attorney General that will attract and retain employees of proven ability and experience who will devote their full time to the service of the state.
- (2) The Office of the Attorney General may adopt policies necessary to implement this chapter, including personnel and work policies different from those made by the Department of Human Resource Management.

Amended by Chapter 166, 2007 General Session

67-5-8 Eligibility for career service status.

- (1)
 - (a) The attorney general has sole authority to determine who may be employed with the Office of the Attorney General.
 - (b) An employee of the state or any of its departments or agencies has no claim or right to a position in the attorney general's office by virtue of that employment.
- (2)
 - (a) An employee of the Office of the Attorney General shall be placed in a career service status if:
 - (i) for an employee who is an attorney, the attorney is a member in good standing of the Utah State Bar Association; and
 - (ii) except as provided in Subsection (3), the employee has been employed by the Office of the Attorney General as a probationary employee for a period of:
 - (A) at least one year but no more than 18 months; or
 - (B) in the case of investigators, at least 18 months, but no more than two years.
 - (b) An employee now employed by the attorney general's office in career service may not be terminated under this chapter except for cause.
- (3)
 - (a) The attorney general shall determine whether an employee should be granted career service status.
 - (b) If, at the end of the probationary period established under Subsection (2), the attorney general determines that an employee should be granted career service status, the attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.
 - (c) If the attorney general determines that career service status should not be granted, the attorney general may either terminate the employee or extend the probationary period for a period not to exceed one year.
 - (d) The attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.
 - (e) An employee terminated under this section has no appeal rights under this chapter.

Amended by Chapter 101, 2012 General Session

67-5-9 Reassignment of career status employees -- Additional compensation for managerial assignments -- Employment of special assistant attorneys general -- Termination of employees -- Salary increases.

This chapter does not affect the authority of the attorney general to:

- (1) assign and reassign employees in a career status to different positions on his staff. The salary of an employee reassigned to a different position shall not be decreased by reason of reassignment; except that if the employee reassigned occupies the position of chief deputy attorney general, the salary may be reduced by not more than 15% upon the assignment to a different position;
- (2) develop a plan for additional compensation for career status employees who accept managerial assignments within the office. The provisions of Subsection (1) notwithstanding, the attorney general may discontinue any additional compensation if the employee no longer holds a managerial assignment. Additional compensation provided under this section shall be determined by the attorney general pursuant to the plan developed by the Office of the Attorney General. If the employee no longer holds a managerial assignment, and the attorney general decides to discontinue any additional compensation, the reduction may not place the employee at a salary below where the employee would be through normal salary increases if the employee had not been in a managerial position;
- (3) employ special assistant attorneys general, who shall not be subject to this chapter, to represent the state in particular lawsuits or to handle particular legal matters for the state;
- (4) terminate the employment of any employee of the Office of the Attorney General who is not in a career service status; or
- (5) establish the salary or determine salary increases of any employee under this chapter.

Amended by Chapter 166, 2007 General Session

67-5-10 Career status attorneys as full-time employees -- Completion of outside law practice.

- (1) Attorneys in a career status shall be full-time employees and shall not engage in the private practice of law and shall not receive any fee for legal services rendered to any person, corporation, partnership, or other legal entity other than the state or the county in which the person holds office or by whom the person is employed. The practice of law prohibited by this subsection does not include pro bono service.
- (2) Attorneys on probationary status who have not been granted career service status may, in the discretion of the attorney general, be granted permission to complete or handle legal matters previously begun before employment with the attorney general's office, but may not begin new matters once employed. Once career service status is conferred, the attorney is bound by the provisions of Subsection (1).
- (3) The provisions of this section shall not apply to special assistant attorneys general retained on a fee basis to render services in connection with a single case or a related series of cases.

Amended by Chapter 199, 1994 General Session

67-5-11 Employee accepting appointment to state position exempt from merit provisions -- Reinstatement in career status.

- (1) An employee in a career status accepting appointment to a position in state government which is exempt from the merit provisions of Title 67, Chapter 19, Utah State Personnel Management

Act, shall notify the attorney general in writing. Upon termination of the appointment, unless discharged for cause, the employee, through written request of reinstatement made to the attorney general within 30 days from the effective date of termination from the appointment, shall be reinstated in a career status in the attorney general's office at a salary not less than that which he was receiving at the time of his appointment, and the time spent in the other position shall be credited toward seniority in the career service. Reinstatement shall be made no later than 60 days after the written notification required by this Subsection (1) or 60 days after the effective date of termination from the employee's appointive position, whichever is later. The position and assignment to which the employee shall return shall be determined by the attorney general.

- (2)
- (a) The Office of the Attorney General shall establish and maintain a separate seniority list for each employee category, which categories may include attorneys, investigators, paralegals, secretaries, and others.
 - (b) An employee of the Office of the Attorney General with less seniority than an employee in the same category entitled to be reinstated under this section holds his position subject to any reinstatement provided by Subsection (1).

Amended by Chapter 166, 2007 General Session

67-5-12 Dismissal of career status employees -- Causes -- Procedure -- Retention roster -- Reappointment register.

- (1)
- (a) Employees in a career status may be dismissed only:
 - (i) to advance the good of public service;
 - (ii) where funds have expired or work no longer exists; or
 - (iii) for any of the following causes or reasons:
 - (A) noncompliance with provisions in the Office of Attorney General policy manual, or division policies, and, for attorneys, noncompliance with the Rules of Professional Conduct;
 - (B) work performance that is inefficient or incompetent;
 - (C) failure to maintain skills and adequate performance levels;
 - (D) insubordination or disloyalty to the orders of a superior;
 - (E) misfeasance, malfeasance, or nonfeasance;
 - (F) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal obligations;
 - (G) conduct on or off duty which creates a conflict of interest with the employee's public responsibilities or impact that employee's ability to perform his or her job assignments;
 - (H) any incident involving intimidation, physical harm, threats of physical harm against coworkers, management, or the public;
 - (I) failure to meet the requirements of the position;
 - (J) dishonesty; or
 - (K) misconduct.
 - (b) Employees in career status may not be dismissed for reasons of race, national origin, religion, or political affiliation.
- (2) Except in aggravated cases of misconduct, an employee in a career status may not be suspended, demoted, or dismissed without the following procedures:

- (a) The attorney general or a designated representative shall notify the employee of the reasons for suspension, demotion, or dismissal.
 - (b) The employee shall have an opportunity to reply and have the reply considered by the attorney general or a designated representative.
 - (c) The employee shall have an opportunity to be heard by the attorney general or a designated representative.
 - (d) Following a hearing, an employee may be suspended, demoted, or dismissed if the attorney general or a designated representative finds adequate reason.
 - (e) If the attorney general or a designated representative finds that retention of an employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be summarily suspended pending administrative hearings and a review by the Career Service Review Office.
- (3)
- (a) An employee in a career status who is aggrieved by a decision of the attorney general or a designated representative to suspend, demote, or dismiss the employee may appeal the decision to the Career Service Review Office or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance Procedures.
 - (b) Matters other than dismissal or demotion may be appealed to and reviewed by the attorney general or a designated representative whose decision is final with no right of appeal to the Career Service Review Office or its hearing officers.
- (4) Disciplinary actions shall be supported by credible evidence, but the normal rules of evidence in courts of law do not apply in hearings before the attorney general or a designated representative or the Career Service Review Office or its hearing officers.
- (5)
- (a) Reductions in force required by reinstatement of an employee under Section 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a retention roster to be maintained by the Office of the Attorney General and the requirements of this Subsection (5).
 - (b) Except attorney general executive or administrative appointees, employees not in a career status shall be separated before any employee in a career status.
 - (c) Retention points for each employee in a career status shall be based on the employee's seniority in service within each employee category in the Office of the Attorney General, including any military service fulfilled subsequent to the employee's original appointment.
 - (d) Employees in career status shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
 - (e) Those employees who are serving in other positions under Section 67-5-11 shall:
 - (i) have retention points determined as if they were working for the office; and
 - (ii) be separated in the order of the retention points as if they were working in the Office of the Attorney General.
 - (f) An employee in a career status who is separated by reason of a reduction in force shall be:
 - (i) placed on a reappointment register kept by the Office of the Attorney General for one year; and
 - (ii) offered reappointment to a position in the same category in the Office of the Attorney General before any employee not having a career status is appointed.

Amended by Chapter 369, 2012 General Session

67-5-13 Limitations on political activities by career status employees.

- (1) An employee in a career status may not, while in a pay status, be a state or federal officer in any partisan political party organization or in any statewide partisan political campaign. The employee, however, may be an officer or delegate in a partisan political party organization at a county or inferior level or a delegate at a state or national level.
- (2) An employee in career status may not be a candidate for any partisan political office, but upon application to the attorney general the employee shall be granted a leave of absence without pay but without loss of existing seniority to participate in a partisan political campaign either as an officer or as a candidate. Time spent during the political leave shall not be counted for seniority purposes as being in service. For the purposes of this section, an employee is not considered to be a candidate until the primary elections have been held.
- (3) An employee in career status may not engage in political activity during the hours of employment, nor may any person solicit political contributions from any employee in career status during hours of employment or through state facilities or in any manner impose assessments on them for political purposes; but nothing in this section shall preclude voluntary contributions to a candidate or a political party.
- (4) Partisan political activity shall not be a basis for employment, promotion, demotion, or dismissal. Any violation of this section may lead to disciplinary action against the employee, which may consist of reprimand, suspension, demotion, or termination as determined by the attorney general.
- (5) This section shall not be construed to permit partisan political activity by any employee in career status who is prevented or restricted from engaging in this political activity by the provisions of any federal act or the rules and regulations promulgated under it.

Amended by Chapter 166, 2007 General Session

67-5-15 Records of the attorney general.

- (1) A record provided to the Office of the Attorney General by a client governmental entity shall be considered a record of the client governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, if the client governmental entity retains a copy of the record.
- (2) Notwithstanding Subsection 63G-2-201(5), records may be exchanged between the Office of the Attorney General and a client governmental entity, without meeting the requirements of Section 63G-2-206 provided that they are used only for the purpose of representing the client governmental entity.

Amended by Chapter 382, 2008 General Session

67-5-16 Child protective services investigators within attorney general's office -- Authority -- Training.

- (1) The attorney general may employ, with the consent of the Division of Child and Family Services within the Department of Human Services, and in accordance with Section 62A-4a-202.6, child protective services investigators to investigate alleged instances of abuse or neglect of a child that occur while a child is in the custody of the Division of Child and Family Services. Those investigators may also investigate reports of abuse or neglect of a child by an employee of the Department of Human Services, or involving a person or entity licensed to provide substitute care for children in the custody of the Division of Child and Family Services.
- (2) Attorneys who represent the Division of Child and Family Services under Section 67-5-17, and child protective services investigators employed by the attorney general under Subsection (1),

shall be trained on and implement into practice the following items, in order of preference and priority:

- (a) the priority of maintaining a child safely in the child's home, whenever possible;
- (b) the importance of:
 - (i) kinship placement, in the event the child is removed from the home; and
 - (ii) keeping sibling groups together, whenever practicable and in the best interests of the children;
- (c) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;
- (d) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and
- (e) the use of an individualized permanency goal, only as a last resort.

Amended by Chapter 171, 2013 General Session

67-5-17 Attorney-client relationship.

- (1) When representing the governor, lieutenant governor, auditor, or treasurer, or when representing an agency under the supervision of any of those officers, the attorney general shall:
 - (a) keep the officer or the officer's designee reasonably informed about the status of a matter and promptly comply with reasonable requests for information;
 - (b) explain a matter to the extent reasonably necessary to enable the officer or the officer's designee to make informed decisions regarding the representation;
 - (c) abide by the officer's or designee's decisions concerning the objectives of the representation and consult with the officer or designee as to the means by which they are to be pursued; and
 - (d) jointly by agreement, establish protocols with the officer to facilitate communications and working relationships with the officer or agencies under the officer's supervision.
- (2) Nothing in Subsection (1) modifies or supercedes any independent legal authority granted specifically by statute to the attorney general.
- (3) When the attorney general institutes or maintains a civil enforcement action on behalf of the state of Utah that is not covered under Subsection (1), the attorney general shall:
 - (a) fully advise the governor, as the officer in whom the executive authority of the state is vested, before instituting the action, entering into a settlement or consent decree, or taking an appeal; and
 - (b) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information.
- (4) In a civil action not covered under Subsection (1) or (3), the attorney general shall:
 - (a) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information;
 - (b) explain the matter to the extent reasonably necessary to enable the governor to make informed decisions regarding the representation; and
 - (c) abide by the governor's decisions concerning the objectives of the representation and consult with the governor as to the means by which they are to be pursued.
- (5) The governor may appear in any civil legal action involving the state and appoint legal counsel to advise or appear on behalf of the governor. The court shall allow the governor's appearance.

Enacted by Chapter 212, 2000 General Session

67-5-18 Obscenity and Pornography Complaints Ombudsman -- Powers.

- (1) As used in this section, "pornography" means material or a performance that meets the requirements of Subsection 76-10-1203(1).
- (2)
 - (a) There is created an Obscenity and Pornography Complaints Ombudsman in the Office of the Attorney General.
 - (b) The attorney general shall hire an attorney licensed to practice law in Utah who has knowledge of obscenity and pornography law and, if possible, who has a background or expertise in investigating and prosecuting obscenity and pornography law violations to fill the position.
 - (c) The person hired to fill the position is an exempt employee.
 - (d) The attorney general may hire clerks, interns, or other personnel to assist the pornography complaints ombudsman.
- (3) The Obscenity and Pornography Complaints Ombudsman shall:
 - (a) develop and maintain expertise in and understanding of laws designed to control or eliminate obscenity and pornography and the legal standards governing the regulation or elimination of obscenity and pornography;
 - (b) advise citizens and local governments about remedies to address instances of obscenity and pornography in their communities;
 - (c) advise local governments about ways to strengthen local laws and ordinances addressing obscenity and pornography;
 - (d) advise local governments about strategies to restrict, suppress, or eliminate obscenity and pornography in their communities;
 - (e) at the request of the attorney general or a local government, assist a local government in investigating and prosecuting state and local laws and ordinances addressing obscenity or pornography;
 - (f) before beginning an investigation:
 - (i) contact the county, district, or city attorney within whose jurisdiction an investigation by the Obscenity and Pornography Complaints Ombudsman will take place and inform that county, district, or city attorney of the investigation; and
 - (ii) coordinate efforts and share records, in accordance with Section 63G-2-206, with the county, district, or city's attorney referred to in Subsection (3)(f)(i) throughout the investigation;
 - (g) advise citizens about their options to address specific complaints about obscenity or pornography in their communities;
 - (h) when requested by a citizen or local government official, arbitrate between citizens and businesses to resolve complaints about obscenity or pornography;
 - (i) provide information to private citizens, civic groups, government entities, and other interested parties about the dangers of obscenity and pornography, the current laws to restrict, suppress, or eliminate pornography, and their rights and responsibilities under those laws;
 - (j) draft model ordinances that contain:
 - (i) various degrees of regulation of sexually-oriented businesses; and
 - (ii) options for local communities that can be used to regulate pornography and obscenity;
 - (k) assist political subdivisions in:
 - (i) drafting model rules, regulations, and policies; and
 - (ii) providing recommendations for enforcing those rules, regulations, and policies;
 - (l) in conjunction with Utah's county and municipal prosecuting attorneys:

- (i) review Utah's and Idaho's moral nuisance law;
- (ii) draft a comprehensive moral nuisance law for Utah and a model ordinance for municipalities and counties to provide an effective mechanism to abate and discourage obscenity and pornography; and
- (iii) present the draft to the Legislature's Judiciary Interim Committee before October 25, 2001; and
- (m) establish a program to combat Internet pornography and to assist parents in protecting their children from Internet pornography.

Amended by Chapter 382, 2008 General Session

67-5-20 Internet crimes against children -- Education programs.

- (1)
 - (a) The attorney general may assist in efforts to prevent and prosecute Internet crimes against children, including working with other agencies of state and local government.
 - (b) Under Subsection (1)(a), the attorney general may administer the Internet Crimes Against Children Task Force, which is a statewide multidisciplinary and multijurisdictional task force that investigates, prevents, and prosecutes sexual exploitation offenses against children by offenders who use the Internet, online communications systems, or other computer technology.
- (2)
 - (a) As part of the attorney general's participation in this task force, the attorney general shall make available, to the extent legislative funding is available, statewide training and informational materials regarding Internet safety for children that focuses on prevention, reporting, and assistance regarding Internet crimes against children.
 - (b) The training and information shall include programs and information specifically designed for:
 - (i) children, which shall include classroom presentations and informative leaflets or other printed material; and
 - (ii) parents, guardians, educators, school resource officers, parent-teacher organizations, and libraries, which shall include Internet safety, technological protection measures, and effective supervision and review of children's use of the Internet, including locating and assessing sites children have had contact with.
 - (c) As possible, the attorney general shall direct that the task force work with state and local agencies that provide information and programs to prevent and prosecute Internet crimes against children to ensure the most effective use of resources.

Enacted by Chapter 277, 2005 General Session

67-5-21 Internet Crimes Against Children (ICAC) unit creation -- Duties -- Employment of staff.

- (1) There is created within the Office of the Attorney General the Internet Crimes Against Children (ICAC) unit to investigate and prosecute cases involving child pornography and cases involving enticing minors over the Internet into illegal sexual acts.
- (2) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (1).

Enacted by Chapter 350, 2006 General Session

67-5-22 Identity theft reporting information system -- Internet website and database -- Access -- Maintenance and rulemaking -- Criminal provisions.

- (1) There is created within the Office of the Attorney General the Identity Theft Reporting Information System (IRIS) Program to establish a database and Internet website to:
 - (a) allow persons in the state to submit reports of identity theft;
 - (b) assist the Office of the Attorney General in notifying state and local law enforcement agencies of reports of identity theft;
 - (c) provide assistance and resources to victims of identity theft;
 - (d) provide a centralized location where information related to incidents of identity theft may be securely stored and accessed for the benefit of victims of identity theft; and
 - (e) provide public education and information relating to identity theft.
- (2)
 - (a) The Internet website shall be maintained by the Office of the Attorney General and shall be made available to the public and to victims of identity-related crimes.
 - (b) The Internet website shall:
 - (i) allow a victim of an identity-related crime to report the crime on the website and have the victim's report routed to the appropriate law enforcement agency for the jurisdiction in which the crime occurred; and
 - (ii) provide public education and information relating to identity theft.
 - (c) The Internet website may be expanded to provide other identity-related services to victims according to the procedures of Subsection (4).
- (3)
 - (a) The Department of Technology Services shall administer and maintain the database established under this section in an electronic file or other format as established by the department.
 - (b)
 - (i) The database shall be maintained for the purpose of identifying victims of identity theft who have filed a report with the program established under this section, and may contain the personally identifiable information for each victim, which may include the following information related to an incident of identify theft:
 - (A) the victim's name, address, email addresses, and telephone numbers;
 - (B) the victim's Social Security number and other identifying information;
 - (C) the victim's financial institution information, account numbers, and transaction information;
 - (D) the victim's benefit information;
 - (E) the victim's credit account information;
 - (F) the victim's loan information;
 - (G) the victim's employment information;
 - (H) the victim's Internal Revenue Service or tax information;
 - (I) the victim's utility service information;
 - (J) information concerning legal matters or collections related to the incident;
 - (K) information concerning unauthorized or illegal transactions, denied credit, stolen identification, and all other unauthorized actions related to the identity theft; and
 - (L) any other information related to the incident of identity theft that the victim or the Office of the Attorney General elects to include in the database.
 - (ii) The database shall record and maintain:
 - (A) identification information for each person who requests or receives information from the database;

- (B) a record of the information that is requested or received by each person who requests or receives information from the database; and
- (C) a record of the date and time that any information is requested or provided from the database.
- (c) Information in the database is considered to be the property of the Office of the Attorney General, and retains any classification given it under Title 63G, Chapter 2, Government Records Access and Management Act.
- (4) The Department of Technology Services, with the approval of the Office of the Attorney General, may make rules to:
 - (a) permit the following persons to have access to the database:
 - (i) federal, state, and local law enforcement authorities, provided that the authority is acting within a specified duty of the authority's employment in enforcing laws;
 - (ii) participating merchants and financial institutions, provided that the merchant or institution has entered into an access agreement with the Office of the Attorney General; and
 - (iii) other persons, to be established by rule, provided that the person's access to the information is necessary and reasonable to accomplish the purposes of the program as provided in Subsection (1);
 - (b) define and enforce limitations on access to information via the Internet website or in the database; and
 - (c) establish standards and procedures to ensure accurate identification of individuals that are requesting or receiving information from the Internet website or the database.
- (5)
 - (a) In addition to the penalties provided under Title 63G, Chapter 2, Government Records Access and Management Act, a person may not knowingly and intentionally release or disclose information from the database in violation of the limitations provided under Subsection (4)(a).
 - (b) A violation of Subsection (5)(a) is a third degree felony.
- (6)
 - (a) A person may not obtain or attempt to obtain information from the database by misrepresentation or fraud.
 - (b) A violation of Subsection (6)(a) is a third degree felony.
- (7)
 - (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified under Subsection (4)(a).
 - (b) Each separate violation of Subsection (7)(a) is a third degree felony.

Amended by Chapter 161, 2008 General Session

67-5-22.7 Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.

- (1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.
- (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive, multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.

- (3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.
- (4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:
 - (a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes;
 - (b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state; and
 - (c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).
- (5)
 - (a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."
 - (b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.
 - (c) Subject to appropriations from the Legislature, beginning on the program start date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-6-1102 or 76-10-1801.
 - (d) To obtain payment from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim.
 - (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:
 - (i) that the person is the victim of identity theft described in Subsection (5)(d); and
 - (ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.
 - (f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity Theft Victims Restricted Account:
 - (i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);
 - (ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and
 - (iii) to the extent that there is money in the Identity Theft Victims Restricted Account.
 - (g) If there is insufficient money in the Identity Theft Victims Restricted Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim in the order that the claims are filed.
- (6) The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

Amended by Chapter 18, 2011 General Session

67-5-23 Use of state vehicles for law enforcement officers.

- (1) The attorney general may authorize law enforcement officers, as defined under Section 53-13-103, who are employees in the Office of the Attorney General to use a state issued vehicle for official and commuter use.
- (2) An employee shall use, and the attorney general shall authorize the use of, a vehicle under Subsection (1) subject to the rules adopted by the Division of Fleet Operations in accordance with Section 63A-9-401.

Amended by Chapter 26, 2014 General Session

67-5-24 Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions.

- (1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.
- (2) The fund shall consist of gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund.
- (3)
 - (a) If the donor designates a specific purpose or use for the gift, grant, devise, donation, or bequest, money from the fund shall be used solely for that purpose.
 - (b) Gifts, grants, devises, donations, and bequests not designated for a specific purpose under Subsection (3)(a) and that are not restricted to a specific use under federal law, shall be used in connection with the activities under Subsection (4).
 - (c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section.
 - (d) The money in the fund may not be used for administrative expenses of the Office of the Attorney General normally provided for by legislative appropriation.
- (4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:
 - (a) the Amber Alert program;
 - (b) prevention of crime against seniors;
 - (c) prevention of domestic violence and dating violence;
 - (d) antidrug use programs;
 - (e) preventing gangs and gang violence;
 - (f) Internet safety programs;
 - (g) mentoring Utah partnerships;
 - (h) suicide prevention programs;
 - (i) underage drinking programs;
 - (j) antipornography programs;
 - (k) victims assistance programs;
 - (l) identity theft investigations and prosecutions; or
 - (m) identity theft reporting system database.
- (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.
- (6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Amended by Chapter 400, 2013 General Session

67-5-26 Safety Net Initiative -- Task force -- Staff.

- (1) As used in this section, "individuals in underserved communities" means men, women, and children living in culturally isolated communities of Utah and northern Arizona who may lack access to justice, safety, and services.
- (2) There is created within the Office of the Attorney General the Safety Net Initiative to:
 - (a) address and prevent the crimes of domestic violence, sexual assault, stalking, incest, and child abuse relating to individuals in underserved communities; and
 - (b) implement strategies to increase awareness and to reduce risk factors in order to improve the safety and well-being of individuals in underserved communities.
- (3) There is created within the Office of the Attorney General the Safety Net Task Force, which is a statewide multi-disciplinary and multi-jurisdictional task force focused on accomplishing the following objectives:
 - (a) coordinating with government agencies, nonprofit organizations, and interested individuals in order to work to provide open communication with individuals in underserved communities; and
 - (b) coordinating efforts to give individuals in underserved communities equal access to justice, safety, and services.
- (4) The attorney general may employ or contract with individuals, entities, and support staff necessary to administer the duties required by this section.

Enacted by Chapter 116, 2008 General Session

67-5-27 Real estate fraud prosecutor.

- (1) The state attorney general shall employ an attorney licensed to practice law in Utah who:
 - (a) has knowledge of the law related to mortgage fraud; and
 - (b) preferably also has background or expertise in investigating and prosecuting mortgage fraud.
- (2) The primary responsibility of the attorney employed under Subsection (1) is the prosecution of real estate fraud.
- (3) The state attorney general may employ clerks, interns, or other personnel as necessary to assist the attorney employed under Subsection (1).

Enacted by Chapter 370, 2008 General Session

67-5-28 Memorandum of Understanding regarding enforcement of federal immigration laws -- Communications regarding immigration status -- Private cause of action.

- (1) The attorney general shall negotiate the terms of a Memorandum of Understanding between the state and the United States Department of Justice or the United States Department of Homeland Security as provided in 8 U.S.C., Sec. 1357(g) for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel, to include investigations, apprehensions, detentions, and removals of persons who are illegally present in the United States.
- (2) The attorney general, the governor, or an individual otherwise required by the appropriate federal agency referred to in Subsection (1) shall sign the Memorandum of Understanding on behalf of the state.
- (3)
 - (a) A unit of local government, whether acting through its governing body or by an initiative or referendum, may not enact an ordinance or policy that limits or prohibits a law enforcement

officer, local official, or local government employee from communicating or cooperating with federal officials regarding the immigration status of a person within the state.

- (b) Notwithstanding any other provision of law, a government entity or official within the state may not prohibit or in any way restrict a government entity or official from sending to, or receiving from, the United States Department of Homeland Security information regarding the citizenship or immigration status, lawful or unlawful, of an individual.
- (c) Notwithstanding any other provision of law, a person or agency may not prohibit or in any way restrict a public employee from doing the following regarding the immigration status, lawful or unlawful, of an individual:
 - (i) sending information to or requesting or receiving information from the United States Department of Homeland Security;
 - (ii) maintaining the information referred to in Subsection (3)(c)(i); and
 - (iii) exchanging the information referred to in Subsection (3)(c)(i) with any other federal, state, or local government entity.
- (d) This Subsection (3) allows for a private right of action by a natural or legal person lawfully domiciled in this state to file for a writ of mandamus to compel a noncompliant local or state governmental agency to comply with the reporting laws of this Subsection (3).

Enacted by Chapter 26, 2008 General Session

67-5-29 Duty to file legal actions.

- (1) The attorney general may file an action to enforce the Utah Enabling Act, Section 9.
- (2) In accordance with Title 78B, Chapter 6, Particular Proceedings, the attorney general shall file an eminent domain action or quiet title action on property possessed by the federal government:
 - (a)
 - (i) that facilitates the state's ability to manage the school and institutional trust lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the trust lands; and
 - (ii)
 - (A) that provides access to school and institutional trust lands; or
 - (B) that increases the profitability of the school and institutional trust lands; or
 - (b) for a public use that increases the ability of the state to generate revenue.
- (3) The attorney general shall file, by no later than July 1, 2011, an eminent domain action or quiet title action described in Subsection (2) on property possessed by the federal government for:
 - (a) a highway on Spring Creek Road located in the western half of section 3, township 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;
 - (b) a highway off of Old Canyon Road located in the northeast quarter of the southeast quarter of section 5, township 10 north, range 5 east to provide access to the southeast quarter of the southeast quarter of section 32, township 11 north, range 5 east; or
 - (c) the purposes described in Subsection (2).

Enacted by Chapter 262, 2010 General Session

67-5-30 Mortgage and Financial Fraud Unit creation -- Duties -- Employment of staff.

- (1) The attorney general may assist in efforts to prevent, investigate, and prosecute mortgage fraud, as described in Section 76-6-1203, and other financial fraud, including working with other agencies of state and local government.

- (2) There is created within the Office of the Attorney General the Mortgage and Financial Fraud Unit to investigate and prosecute cases of mortgage fraud and other financial fraud.
- (3) The Mortgage and Financial Fraud Unit shall focus its efforts on detecting, investigating, deterring, and prosecuting mortgage fraud and other major financial fraud crimes.
- (4) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (2).

Enacted by Chapter 350, 2012 General Session

67-5-31 Mortgage and Financial Fraud Investigation and Prosecution Restricted Account.

- (1) There is created a restricted account within the General Fund known as the "Mortgage and Financial Fraud Investigation and Prosecution Restricted Account."
- (2) The restricted account includes:
 - (a) \$2,000,000 of deposits from the foreclosure fraud settlement agreement between the United States Justice Department, United States Department of Housing and Urban Development, and a bipartisan group of state attorneys general, including Utah's attorney general, Bank of America, Citi, JP Morgan Chase, GMAC, and Wells Fargo announced in February 2012; and
 - (b) any other amount appropriated by the Legislature.
- (3) Money from the restricted account shall be used by the attorney general to:
 - (a) investigate and prosecute mortgage and financial fraud throughout the state; and
 - (b) fund mortgage and financial fraud investigation and prosecution staff.

Enacted by Chapter 350, 2012 General Session

67-5-32 Rulemaking authority regarding the procurement of outside counsel, expert witnesses, and other litigation support services.

- (1)
 - (a) The attorney general shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish public disclosure, transparency, accountability, reasonable fees and limits on fees, and reporting in relation to the procurement of outside counsel, expert witnesses, and other litigation support services.
 - (b) On or before May 30, 2014, the attorney general shall submit to the Business and Labor Interim Committee, for its review, comment, and recommendations, the attorney general's proposed rules under Subsection (1)(a) relating to fee limits for outside counsel, including any provisions relating to exceptions to or a waiver of the fee limits.
 - (c) Before September 1, 2014, the Business and Labor Interim Committee shall include the attorney general's proposed rules described in Subsection (1)(b) on a committee agenda for the purpose of allowing the committee to review, comment, and make recommendations on the proposed rules.
- (2) The rules described in Subsection (1) shall:
 - (a) ensure that a procurement for outside counsel is supported by a determination by the attorney general that the procurement is in the best interests of the state, in light of available resources of the attorney general's office;
 - (b) provide for the fair and equitable treatment of all potential providers of outside counsel, expert witnesses, and other litigation support services;
 - (c) ensure a competitive process, to the greatest extent possible, for the procurement of outside counsel, expert witnesses, and other litigation support services;

- (d) ensure that fees for outside counsel, whether based on an hourly rate, contingency fee, or other arrangement, are reasonable and consistent with industry standards;
- (e) ensure that contingency fee arrangements do not encourage high risk litigation that is not in the best interests of the citizens of the state;
- (f) provide for oversight and control, by the attorney general's office, in relation to outside counsel, regardless of the type of fee arrangement under which outside counsel is hired;
- (g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to be served with process without the express written authorization of the attorney general's office;
- (h) establish for transparency regarding the procurement of outside counsel, expert witnesses, and other litigation support services, subject to:
 - (i) Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (ii) other applicable provisions of law and the Utah Rules of Professional Conduct;
- (i) establish standard contractual terms for the procurement of outside counsel, expert witnesses, and other litigation support services; and
- (j) provide for the retention of records relating to the procurement of outside counsel, expert witnesses, and other litigation support services.

Amended by Chapter 209, 2014 General Session

67-5-33 Contingent fee contracts.

(1) As used in this section:

- (a) "Contingent fee case" means a legal matter for which legal services are provided under a contingent fee contract.
- (b) "Contingent fee contract" means a contract for legal services under which the compensation for legal services is a percentage of the amount recovered in the legal matter for which the legal services are provided.
- (c) "Government attorney" means the attorney general or an assistant attorney general.
- (d) "Legal matter" means a legal issue or administrative or judicial proceeding within the scope of the attorney general's authority.
- (e) "Private attorney" means an attorney or law firm in the private sector.
- (f) "Securities class action" means an action brought as a class action alleging a violation of federal securities law, including a violation of the Securities Act of 1933, 15 U.S.C. Sec. 77a et seq., or the Securities Exchange Act of 1934, 15 U.S.C. Sec. 78a et seq.

(2) Subsections (3) through (9):

- (a) do not apply to a contingent fee contract in existence before May 12, 2015, or to any renewal or modification of a contingent fee contract in existence before that date;
- (b) do not apply to a contingent fee contract with a private attorney that the attorney general hires to collect a debt that the attorney general is authorized by law to collect; and
- (c) with respect to a contingent fee contract with a private attorney in a securities class action in which the state is appointed as lead plaintiff under Section 27(a)(3)(B)(i) of the Securities Act of 1933 or Section 21D(a)(3)(B)(i) of the Securities Exchange Act of 1934 or in which any state is a class representative, or in any other action in which the state is participating with one or more other states:
 - (i) apply only with respect to the state's share of any judgment, settlement amount, or common fund; and
 - (ii) do not apply to attorney fees awarded to a private attorney for representing other members of a class certified under Rule 23 of the Federal Rules of Civil Procedure or applicable state class action procedural rules.

- (3)
 - (a) The attorney general may not enter into a contingent fee contract with a private attorney unless the attorney general or the attorney general's designee makes a written determination that the contingent fee contract is cost-effective and in the public interest.
 - (b) A written determination under Subsection (3)(a) shall:
 - (i) be made before or within a reasonable time after the attorney general enters into a contingent fee contract; and
 - (ii) include specific findings regarding:
 - (A) whether sufficient and appropriate legal and financial resources exist in the attorney general's office to handle the legal matter that is the subject of the contingent fee contract; and
 - (B) the nature of the legal matter, unless information conveyed in the findings would violate an ethical responsibility of the attorney general or a privilege held by the state.
- (4) The attorney general or attorney general's designee shall request qualifications from a private attorney being considered to provide services under a contingent fee contract unless the attorney general or attorney general's designee:
 - (a) determines that requesting qualifications is not feasible under the circumstances; and
 - (b) sets forth the basis for the determination under Subsection (4)(a) in writing.
- (5)
 - (a) The attorney general may not enter into a contingent fee contract with a private attorney that provides for the private attorney to receive a contingent fee, exclusive of reasonable costs and expenses, that exceeds:
 - (i)
 - (A) 25% of the amount recovered, if the amount recovered is no more than \$10,000,000;
 - (B) 25% of the first \$10,000,000 recovered, plus 20% of the amount recovered that exceeds \$10,000,000, if the amount recovered is over \$10,000,000 but no more than \$15,000,000;
 - (C) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the amount recovered that exceeds \$15,000,000, if the amount recovered is over \$15,000,000 but no more than \$20,000,000; and
 - (D) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the next \$5,000,000 recovered, plus 10% of the amount recovered that exceeds \$20,000,000, if the amount recovered is over \$20,000,000; or
 - (ii) \$50,000,000.
 - (b) A provision of a contingent fee contract that is inconsistent with a provision of this section is invalid unless, before the contract is executed, the contingent fee contract provision is approved by a majority of the attorney general, state treasurer, and state auditor.
 - (c) A contingent fee under a contingent fee contract may not be based on the imposition or amount of a penalty or civil fine.
 - (d) A contingent fee under a contingent fee contract may be paid only on amounts actually recovered by the state.
- (6)
 - (a) Throughout the period covered by a contingent fee contract, including any extension of the contingent fee contract:
 - (i) the private attorney that is a party to the contingent fee contract shall acknowledge that the government attorney retains complete control over the course and conduct of the contingent fee case for which the private attorney provides legal services under the contingent fee contract;

- (ii) a government attorney with supervisory authority shall oversee any litigation involved in the contingent fee case;
 - (iii) a government attorney retains final authority over any pleading or other document that the private attorney submits to court;
 - (iv) an opposing party in a contingent fee case may contact the lead government attorney directly, without having to confer with the private attorney;
 - (v) a government attorney with supervisory authority over the contingent fee case may attend all settlement conferences; and
 - (vi) the private attorney shall acknowledge that final approval regarding settlement of the contingent fee case is reserved exclusively to the discretion of the attorney general.
 - (b) Nothing in Subsection (6)(a) may be construed to limit the authority of the client regarding the course, conduct, or settlement of the contingent fee case.
- (7)
- (a) Within five business days after entering into a contingent fee contract, the attorney general shall post on the attorney general's website:
 - (i) the contingent fee contract;
 - (ii) the written determination under Subsection (3) relating to that contingent fee contract; and
 - (iii) if applicable, any written determination made under Subsection (4)(b) relating to that contingent fee contract.
 - (b) The attorney general shall keep the contingent fee contract and written determination posted on the attorney general's website throughout the term of the contingent fee contract.
- (8) A private attorney that enters into a contingent fee contract with the attorney general shall:
- (a) from the time the contingent fee contract is entered into until three years after the contract expires, maintain detailed records relating to the legal services provided by the private attorney under the contingent fee contract, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that relate to the legal services provided by the private attorney; and
 - (b) maintain detailed contemporaneous time records for the attorneys and paralegals working on the contingent fee case and promptly provide the records to the attorney general upon request.
- (9)
- (a) After June 30 but on or before September 1 of each year, the attorney general shall submit a written report to the president of the Senate and the speaker of the House of Representatives describing the attorney general's use of contingent fee contracts with private attorneys during the fiscal year that ends the immediately preceding June 30.
 - (b) A report under Subsection (9)(a) shall:
 - (i) identify:
 - (A) each contingent fee contract the attorney general entered into during the fiscal year that ends the immediately preceding June 30; and
 - (B) each contingent fee contract the attorney general entered into during any earlier fiscal year if the contract remained in effect for any part of the fiscal year that ends the immediately preceding June 30;
 - (ii) for each contingent fee contract identified under Subsection (9)(b)(i):
 - (A) state the name of the private attorney that is a party to the contingent fee contract, including the name of the private attorney's law firm if the private attorney is an individual;
 - (B) describe the nature of the legal matter that is the subject of the contingent fee contract, unless describing the nature of the legal matter would violate an ethical responsibility of the attorney general or a privilege held by the state;

- (C) identify the state agency which the private attorney was engaged to represent or counsel; and
 - (D) state the total amount of attorney fees approved by the attorney general for payment to a private attorney for legal services under a contingent fee contract during the fiscal year that ends the immediately preceding June 30; and
 - (iii) be accompanied by each written determination under Subsection (3) or (4)(b) made during the fiscal year that ends the immediately preceding June 30.
- (10) Nothing in this section may be construed to expand the authority of a state department, division, or other agency to enter into a contract if that authority does not otherwise exist.

Enacted by Chapter 362, 2015 General Session

Chapter 5a

Utah Prosecution Council

67-5a-1 Utah Prosecution Council -- Duties -- Membership.

- (1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.
- (2) The council shall:
 - (a) provide training and continuing legal education for state and local prosecutors;
 - (b) provide assistance to local prosecutors; and
 - (c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws.
- (3) The council shall be composed of 10 members, selected as follows:
 - (a) the attorney general or a designated representative;
 - (b) the commissioner of public safety or a designated representative;
 - (c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties; a county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when he is no longer serving as a county attorney or district attorney, whichever occurs first;
 - (d) two city prosecutors designated by the Utah Municipal Attorneys Association; a city prosecutor's term expires when a successor is designated by the association or when he is no longer employed as a city prosecutor, whichever occurs first;
 - (e) the chair of the Board of Directors of the Statewide Association of Public Attorneys of Utah; and
 - (f) the chair of the governing board of the Utah Prosecutorial Assistants Association.

Amended by Chapter 131, 2001 General Session

67-5a-2 Terms -- Filling vacancies -- Chair.

- (1) The term of each council member is four years, unless the term is earlier terminated by:
 - (a) the authority that designated the member; or
 - (b) the member ceasing to hold the office that qualified him for membership.
- (2) A member whose term has expired may continue, for not more than four months, to serve as a council member until a successor is selected and qualified.
- (3) Council members may serve for more than one successive term.

- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a full term that commences on the date of appointment.
- (5) The council shall elect by a majority vote one of its members as chair at its first meeting and then annually.

Amended by Chapter 131, 2001 General Session

67-5a-3 Per diem and travel expenses.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

67-5a-4 Holding public employment.

A member of the council may not be disqualified as a member by holding any public office or employment, and he does not forfeit any office or employment due to his membership on the council. This section takes precedence over any conflicting state law, local ordinance, or city charter.

Enacted by Chapter 136, 1990 General Session

67-5a-5 Quorum -- Meetings.

- (1) The attendance of five members at any regular or special meeting of the council constitutes a quorum. Any member may designate in writing a representative to attend any meeting. The representative's attendance shall be counted toward the quorum, and he may vote on any issue.
- (2) A majority vote of the attending members or their representatives constituting a quorum is sufficient to carry any motion unless the council has by prior vote designated a greater percentage than a majority to sustain an action.
- (3)
 - (a) The council shall meet at least quarterly at a time and place it designates.
 - (b) The chairman or a majority of the members of the council may call a special meeting at any time or place upon five days notice to all of the members. A quorum of all members may waive notice requirements in writing.

Enacted by Chapter 136, 1990 General Session

67-5a-6 Council director -- Qualifications and compensation.

- (1) The council shall appoint a director. The director is the chief administrative officer and serves at the pleasure of the council.
- (2) The director shall:
 - (a) be an attorney admitted to practice in the courts of the state;
 - (b) be selected on the basis of professional ability and experience in the fields of administration, prosecution, and criminal law; and
 - (c) possess an understanding of court procedures, evidence, and criminal law.

- (3) The council shall select and establish the compensation of the director and staff, consistent with state personnel policies.

Enacted by Chapter 136, 1990 General Session

67-5a-7 Responsibilities of the director.

Under the general supervision of the council and within the policies established by the council, the director has the responsibility to:

- (1) assign, supervise, and direct the staff of the council;
- (2) implement the standards, policies, rules, and guidelines of the council;
- (3) prepare and administer the budget of the council and comply with the Utah Budgetary Procedures Act;
- (4) conduct studies of prosecution procedures and systems in the state, including reference to the district attorney prosecution system, and prepare reports and recommendations;
- (5) maintain liaison with governmental and other public and private groups having an interest in prosecution;
- (6) organize and administer a program of training and continuing legal education for prosecutors in the state, including establishing training standards for prosecutors;
- (7) screen all requests addressed to any specialized investigation and prosecution unit created in the Office of the Attorney General for the investigation and prosecution of any child abuse offenses; and
- (8) perform other duties as assigned by the council.

Amended by Chapter 354, 1997 General Session

67-5a-8 Administration.

- (1)
 - (a) The administration costs of this chapter, including council staff compensation, shall be funded from appropriations made by the Legislature to the Office of the Attorney General for the support of the council from the Public Safety Support Account established in Section 51-9-404.
 - (b) Funds available from other sources may also be appropriated by the Legislature to the Office of the Attorney General for the administration of this chapter.
- (2) In exercising its duties, the council shall minimize costs of administration and utilize existing training facilities and resources where possible so the greatest portion of the funds available are expended for training prosecuting attorneys.
- (3) Council staff may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 340, 2011 General Session

Chapter 5b
Children's Justice Center Program

67-5b-101 Definitions.

As used in this part:

- (1) "Abused child" means a child 17 years of age or younger who is a victim of:
 - (a) sexual abuse or physical abuse; or
 - (b) other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases.
- (2) "Center" means a Children's Justice Center established in accordance with Section 67-5b-102.
- (3) "Officers and employees" means any person performing services for two or more public agencies as agreed in memoranda of understanding in accordance with Section 67-5b-104.
- (4) "Public agency" means a municipality, a county, the attorney general, the Division of Child and Family Services, the Division of Juvenile Justice Services, the Department of Corrections, the juvenile court, and the Administrative Office of the Courts.
- (5) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency. Volunteer does not include any person participating in human subjects research and court-ordered compensatory service workers as defined in Section 67-20-2.

Amended by Chapter 129, 2011 General Session

67-5b-102 Children's Justice Center -- Requirements of center -- Purposes of center.

- (1)
 - (a) There is established a program that provides a comprehensive, multidisciplinary, nonprofit, intergovernmental response to sexual abuse of children, physical abuse of children, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases, in a facility known as a Children's Justice Center.
 - (b) The attorney general shall administer the program.
 - (c) The attorney general shall:
 - (i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;
 - (ii) administer applications for state and federal grants;
 - (iii) staff the Advisory Board on Children's Justice;
 - (iv) assist in the development of new centers; and
 - (v) coordinate services between centers.
- (2)
 - (a) The attorney general shall establish Children's Justice Centers or satellite offices in Beaver County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Kane County, Salt Lake County, Sanpete County, Sevier County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.
 - (b) The attorney general may establish other centers within a county and in other counties of the state.
- (3) The attorney general and each center shall fulfill the statewide purpose of each center by:
 - (a) minimizing the time and duplication of effort required to investigate, prosecute, and initiate treatment for the abused child in the state;
 - (b) facilitating the investigation of the alleged offense against the abused child;
 - (c) conducting interviews of abused children and their families in a professional manner;
 - (d) obtaining reliable and admissible information which can be used effectively in criminal and child protection proceedings in the state;
 - (e) coordinating and tracking:

- (i) the use of limited medical and psychiatric services;
 - (ii) investigation of the alleged offense;
 - (iii) preparation of prosecution;
 - (iv) treatment of the abused child and family; and
 - (v) education and training of persons who provide services to the abused child and its family in the state;
 - (f) expediting the processing of the case through the courts in the state;
 - (g) protecting the interest of the abused child and the community in the state;
 - (h) reducing trauma to the abused child in the state;
 - (i) enhancing the community understanding of sexual abuse of children, physical abuse of children, and other crimes in the state involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases;
 - (j) providing as many services as possible that are required for the thorough and effective investigation of child abuse cases; and
 - (k) enhancing the community understanding of criminal offenses committed against or in the presence of children.
- (4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.
- (5) The statewide purpose of this chapter is to establish a program that provides a comprehensive, multidisciplinary, nonprofit, intergovernmental response to sexual abuse of children, physical abuse of children, and other crimes involving children where the child is a primary victim or a critical witness, such as drug-related child endangerment cases, in a facility known as a Children's Justice Center.

Amended by Chapter 334, 2015 General Session

67-5b-103 Appropriation and funding.

- (1) Funding for centers under this section is intended to be broad-based, provided by a line item appropriation by the Legislature to the attorney general, and is intended to include federal grant money, local government money, and private donations.
- (2) The money appropriated shall be used to contract with each public agency designated to oversee the operation and accountability of a center and to cover administrative costs of coordination of the centers' operations.

Amended by Chapter 129, 2011 General Session

67-5b-104 Requirements of a memorandum of understanding.

- (1) Before a center may be established, a memorandum of understanding regarding participation in operation of the center shall be executed among:
 - (a) the contracting public agency designated to oversee the operation and accountability of the center, including the budget, costs, personnel, and management pursuant to Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
 - (b) the Office of the Attorney General;
 - (c) at least one representative of a county or municipal law enforcement agency that investigates child abuse in the area to be served by the center;
 - (d) the division of Child and Family Services;

- (e) the county or district attorney who routinely prosecutes child abuse cases in the area to be served by the center; and
 - (f) at least one representative of any other governmental entity that participates in child abuse investigations or offers services to child abuse victims that desires to participate in the operation of the center.
- (2) A memorandum of understanding executed under this section shall include the agreement of each participating entity to cooperate in:
- (a) developing a comprehensive and cooperative multidisciplinary team approach to investigating child abuse;
 - (b) reducing, to the greatest extent possible, the number of interviews required of a victim of child abuse to minimize the negative impact of the investigation on the child; and
 - (c) developing, maintaining, and supporting, through the center, an environment that emphasizes the best interests of children.

Repealed and Re-enacted by Chapter 129, 2011 General Session

67-5b-105 Local advisory boards -- Membership.

- (1) The cooperating public agencies and other persons shall make up each center's local advisory board, which shall be composed of the following people from the county or area:
- (a) the local center director or the director's designee;
 - (b) a district attorney or county attorney having criminal jurisdiction or any designee;
 - (c) a representative of the attorney general's office, designated by the attorney general;
 - (d) a county sheriff or a chief of police or their designee;
 - (e) the county executive or the county executive's designee;
 - (f) a licensed nurse practitioner or physician;
 - (g) a licensed mental health professional;
 - (h) a criminal defense attorney;
 - (i) at least four members of the community at large provided, however, that the state advisory board may authorize fewer members, although not less than two, if the local advisory board so requests;
 - (j) a guardian ad litem or representative of the Office of Guardian Ad Litem, designated by the director; and
 - (k) a representative of the Division of Child and Family Services within the Department of Human Services, designated by the employee of the division who has supervisory responsibility for the county served by the center.
- (2) The members on each local advisory board who serve due to public office as provided in Subsections (1)(b) through (e) shall select the remaining members. The members on each local advisory board shall select a chair of the local advisory board.
- (3) The local advisory board may not supersede the authority of the contracting public agency as designated in Section 67-5b-104.
- (4) Appointees and designees shall serve a term or terms as designated in the bylaws of the local advisory board.

Amended by Chapter 129, 2011 General Session

67-5b-106 Advisory Board on Children's Justice -- Membership -- Terms -- Duties -- Authority.

- (1) The attorney general shall create an Advisory Board on Children's Justice to advise him about the Children's Justice Center Program.
- (2) The board shall be composed of:
 - (a) the director of each Children's Justice Center;
 - (b) the attorney general or the attorney general's designee;
 - (c) a representative of the Utah Sheriffs Association, appointed by the attorney general;
 - (d) a chief of police, appointed by the attorney general;
 - (e) one juvenile court judge and one district court judge, appointed by the chief justice;
 - (f) one representative of the guardians ad litem and one representative of the Court Appointed Special Advocates, appointed by the chief justice;
 - (g) a designated representative of the Division of Child and Family Services within the Department of Human Services, appointed by the director of that division;
 - (h) a licensed mental health professional, appointed by the attorney general;
 - (i) a person experienced in working with children with disabilities, appointed by the attorney general;
 - (j) one criminal defense attorney, licensed by the Utah State Bar and in good standing, appointed by the Utah Bar Commission;
 - (k) one criminal prosecutor, licensed by the Utah State Bar and in good standing, appointed by the Prosecution Council;
 - (l) a member of the governor's staff, appointed by the governor;
 - (m) a member from the public, appointed by the attorney general, who exhibits sensitivity to the concerns of parents;
 - (n) a licensed nurse practitioner or physician, appointed by the attorney general; and
 - (o) additional members appointed as needed by the attorney general.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of current board members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (4) The Advisory Board on Children's Justice shall:
 - (a) coordinate and support the statewide purpose of the program;
 - (b) recommend statewide guidelines for the administration of the program;
 - (c) recommend training and improvements in training;
 - (d) review, evaluate, and make recommendations concerning state investigative, administrative, and judicial handling in both civil and criminal cases of child abuse, child sexual abuse, neglect, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases;
 - (e) recommend programs to improve the prompt and fair resolution of civil and criminal court proceedings; and
 - (f) recommend changes to state laws and procedures to provide comprehensive protection for children from abuse, child sexual abuse, neglect, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases.
- (5) The Advisory Board on Children's Justice may not supersede the authority of contracting public agencies to oversee operation of the centers, including the budget, costs, personnel, and

management pursuant to Section 67-5b-104 and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Amended by Chapter 255, 2009 General Session

67-5b-107 Immunity -- Limited liability.

- (1) Officers and employees performing services for two or more public agencies pursuant to contracts executed under the provisions of this part are considered to be officers and employees of the public agency employing their services, even though performing those functions outside of the territorial limits of any one of the contracting public agencies, and are considered to be officers and employees of public agencies in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (2) The officers and employees of the center, while acting within the scope of their authority, are not subject to any personal or civil liability resulting from carrying out any of the purposes of a center under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (3) A volunteer is considered a government employee in accordance with Section 67-20-3 and entitled to immunity under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (4) A volunteer, other than one considered a government employee in accordance with Section 67-20-3, may not incur any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:
 - (a) the individual was acting in good faith and reasonably believed he was acting within the scope of the individual's official functions and duties with the center; and
 - (b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal or wanton misconduct.
- (5) The center is not liable for the acts or omissions of its volunteers in any circumstance where the acts of its volunteers are not as described in Subsection (4) unless:
 - (a) the center had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the center under circumstances that make the center's use of the volunteer reckless or wanton in light of that notice; or
 - (b) a business employer would be liable under the laws of this state if the act or omission were the act or omission of one of its employees.

Amended by Chapter 382, 2008 General Session

Chapter 8

Utah Elected Official and Judicial Salary Act

67-8-1 Short title.

This act shall be known and may be cited as the "Utah Elected Official and Judicial Salary Act."

Amended by Chapter 34, 2007 General Session

67-8-2 Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.

- (1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.
- (2) Judicial salaries shall be based on the following percentages of the salary of a district court judge:
 - (a) juvenile court judges: 100%;
 - (b) Court of Appeals judges: 105%; and
 - (c) justices of the Supreme Court: 110%.
- (3)
 - (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge, presiding officer, or associate presiding judge in:
 - (i) Section 78A-2-106;
 - (ii) Section 78A-4-102;
 - (iii) Section 78A-5-106; or
 - (iv) Section 78A-6-203.
 - (b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Amended by Chapter 347, 2015 General Session

67-8-3 Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.

- (1)
 - (a) The executive director of the Department of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53A-1-302, 53B-1-105, or 53C-1-301.
 - (b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.
- (2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).
- (3)
 - (a) After consultation with the attorney general, the executive director of the Department of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.
 - (b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.
 - (c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Amended by Chapter 139, 2006 General Session

67-8-4 State Elected Official and Judicial Compensation Commission created -- Composition -- Appointment -- Terms -- Organization -- Vacancies -- Quorum -- Compensation -- Secretary.

- (1) There is created a state Elected Official and Judicial Compensation Commission comprised of six members, not more than three of whom may be from the same political party, appointed as follows:
 - (a) one member appointed by the governor;
 - (b) one member appointed by the president of the Senate;
 - (c) one member appointed by the speaker of the House of Representatives;
 - (d) two members appointed by the other three appointed members; and
 - (e) one member appointed by the State Bar Commission.
- (2)
 - (a) Except as required by Subsection (2)(b), all persons appointed to the commission shall serve four-year terms or until their successors are duly appointed and qualified.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (3)
 - (a) The commission shall select a chair and a vice chair from opposite political parties at its first meeting.
 - (b) Four members of the commission shall constitute a quorum.
 - (c) The commission shall take no action nor make any determination without the concurrence of a majority of its members being present.
- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5) No member or employee of the legislative, judicial, or executive branch of government is eligible for appointment to the commission. The legislative fiscal analyst shall serve as an ex officio, nonvoting secretary of the commission.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

67-8-5 Duties of commission -- Salary recommendations.

- (1) The commission shall recommend to the Legislature:
 - (a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer;
 - (b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record; and
 - (c) compensation for members of the State Board of Education.
- (2) The commission shall:
 - (a) in making recommendations on salaries described in Subsections (1)(a) and (b):
 - (i) make studies and formulate recommendations concerning the wage and salary classification plan based upon factors such as educational requirements, experience, responsibility, accountability for funds and staff, comparisons with wages paid in other comparable public and private employment within this state, and other states similarly situated, and any other

- factors generally used in similar comprehensive wage and salary classification plans so that the plan and its administration reflect current conditions at all times; and
- (ii) consult and advise with, and make recommendation to, the Department of Human Resource Management regarding the plan, its administration, and the position of any elected official and judge covered by the plan;
 - (b) in making recommendations on compensation described in Subsection (1)(c), make studies and formulate recommendations concerning compensation of members of state boards of education in other states and other factors the commission determines to be relevant so that the compensation reflects current conditions at all times;
 - (c) submit to the Executive Appropriations Committee not later than 60 days before commencement of each annual general session:
 - (i) a report briefly summarizing its activities during the calendar year immediately preceding the session;
 - (ii) recommendations concerning revisions, modifications, or changes, if any, that should be made in the plan, its administration, the classification of any elected official or judge under the plan, or the compensation of members of the State Board of Education; and
 - (iii) specific recommendations regarding the office of governor, lieutenant governor, attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be made in the salary or other emoluments of office so that all elected and judicial officials receive equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or by the Department of Human Resource Management; and
 - (d) conduct a comprehensive review of judicial salary levels and make recommendations for judicial salaries in a report to the president of the Senate, the speaker of the House of Representatives, and the governor by November 1, prior to the convening of the general session of the Legislature in each odd-numbered year.
- (3)
- (a) The recommendation under Subsection (2)(d) shall be based upon consultation with the Judicial Council and upon consideration for the career status of judges. It shall be based upon comparisons with salaries paid in other states and in comparable public and private employment within this state.
 - (b) In even-numbered years, the commission shall update its prior report, based upon the Consumer Price Index and other relevant factors, and shall forward its updated recommendations as prescribed in this section.
- (4) The Judicial Council shall cooperate with the commission in providing information on the judicial branch of government and on the individual levels of court as requested. The director of personnel from the Office of the Court Administrator shall provide the salary comparison data referred to in this section to the legislative fiscal analyst and shall provide other staff assistance and support as requested by the legislative fiscal analyst.

Amended by Chapter 289, 2015 General Session

67-8-6 Legislative fiscal analyst performing administrative functions for commission -- Employment of professional assistance -- Assistance of state agencies -- Publication of reports.

Administration, budgeting, procurement, and related management functions for the commission shall be performed by the legislative fiscal analyst. The commission is, however, authorized to employ professional assistance if deemed necessary and to request assistance from any agency

or institution of the state. It may also prepare, publish, and distribute from time to time reports of its studies and recommendations and statements in support of its recommendations.

Enacted by Chapter 267, 1981 General Session

Chapter 9 Deputy Officers

67-9-1 Appointment -- Powers.

The state auditor, the state treasurer, the attorney general, and the superintendent of public instruction may each appoint a deputy, who may, during the absence or disability of the principal, perform all the duties pertaining to the office, except those required of the principal as a member of any board. The principal shall be answerable for neglect or misconduct in office of his deputy, and may require from him a bond for his own security. The appointment of a deputy shall be in writing, and shall be revocable at the pleasure of the principal; and all such appointments and revocations shall be filed with the lieutenant governor.

Amended by Chapter 68, 1984 General Session

67-9-2 Official bonds.

Where a deputy of any state officer is required to give a bond to the state he shall give a surety-company bond, and the premium therefor shall be paid by the state.

No Change Since 1953

Chapter 10 Reports of Officers

67-10-1 Reports of expenditures of appropriations -- Exceptions.

Excepting the governor and the state auditor, all state officers, state boards and commissions, and the officers of all state institutions, to whom and for which appropriations are made, shall submit to the Division of Archives a detailed statement, under oath, of the manner in which all appropriations for their respective departments and institutions have been expended.

Amended by Chapter 67, 1984 General Session

67-10-2 Accounts to be closed at end of fiscal year.

All officers who are required by law to report annually or biennially to the Legislature or governor shall close their accounts at the end of the fiscal year, and as soon thereafter as practicable shall prepare and compile the material for their respective reports.

Amended by Chapter 153, 1957 General Session

Chapter 11

Federal Social Security

67-11-1 Declaration of policy.

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old-age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the Legislature, subject to the limitations of this act, that such steps be taken as to provide such protection to employees of the state and its political subdivisions within the limitations permitted under the Social Security Act.

Amended by Chapter 184, 1973 General Session

67-11-2 Definitions.

For the purposes of this chapter:

- (1) "Employee" includes an elective or appointive officer or employee of a state or political subdivision thereof.
- (2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except:
 - (a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act;
 - (b) service which under the Social Security Act may not be included in an agreement between the state and federal security administrator entered into under this chapter;
 - (c) services of an emergency nature, service in any class or classes of positions the compensation for which is on a fee basis:
 - (i) performed by employees of the state; or
 - (ii) if so provided in the plan submitted under Section 67-11-5, by a political subdivision of the state, by an employee of such subdivision;
 - (d) services performed by students employed by a public school, college, or university at which they are enrolled and which they are attending on a full-time basis;
 - (e) part-time services performed by election workers, i.e., judges of election and registrars; or
 - (f) services performed by voluntary firemen, except when such services are prescheduled for a specific period of duty.
- (3) "Federal Insurance Contributions Act" means Chapter 21 of the Internal Revenue Code as such Code may be amended.
- (4) "Federal security administrator" includes any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.
- (5) "Political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations thereof, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision. The term shall include local districts, special service districts, or authorities created by the Legislature or local governments such as, but not limited to, mosquito abatement districts, sewer or water districts, and libraries.
- (6) "Sick pay" means payments made to employees on account of sickness or accident disability under a sick leave plan of the type outlined in 42 U.S.C. Secs. 409(a)(2) and (3) of the Social Security Act.

- (7) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended.
- (8) "State agency" means the Division of Finance, referred to herein as the state agency.
- (9) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include "sick pay" as that term is defined in this section and shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Amended by Chapter 306, 2007 General Session

Amended by Chapter 329, 2007 General Session

67-11-3 General powers of state agency and interstate instrumentalities.

- (1) The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the federal security administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute "employment" as defined in Section 67-11-2. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal security administrator shall agree upon. However, except as may be otherwise required or permitted by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:
 - (a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act.
 - (b) The state will pay to the secretary of the treasury of the United States, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in Section 67-11-2, equal to the sum of the taxes which would be imposed by Sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act.
 - (c) The agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to January 1, 1951, and in no case prior to an employment period with reference to which said insurance coverage can be obtained under the provisions of the Social Security Act.
 - (d) All services which constitute employment as defined in Section 67-11-2 and are performed in the employ of the state by employees of the state, shall be covered by the agreement.
 - (e) All services which constitute employment as defined in Section 67-11-2, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under Section 67-11-5, shall be covered by the agreement.
- (2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states:

- (a) to enter into an agreement with the federal security administrator whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality;
 - (b) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under Subsection 67-11-4(1) if they were covered by an agreement made pursuant to Subsection (1); and
 - (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements.
- (3) An agreement shall, to the extent practicable, be consistent with the terms and provisions of Subsections (1) and (2) and other provisions of this chapter.

Amended by Chapter 306, 2007 General Session

67-11-4 Payments into Contribution Fund by employees.

- (1) Every employee of the state whose services are covered by an agreement entered into under Section 67-11-3 shall be required to pay contributions for the period of such coverage, into the Contribution Fund established by Section 67-11-6 with respect to wages, as defined in Section 67-11-2, equal to the amount of tax which would be imposed by Section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. This liability shall arise in consideration of the employee's retention in the service of the state, or his entry upon such service, after February 14, 1951.
- (2) The contribution imposed by this section shall be collected by the authorized state fiscal officers by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.
- (3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

Amended by Chapter 306, 2007 General Session

67-11-5 Political subdivisions of state -- Planned participation.

- (1) Each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in rules of the state agency, except that no such plan shall be approved unless:
 - (a) it is in conformity with the requirements of the Social Security Act and with the agreement entered into under Section 67-11-3;
 - (b) it provides that all services which constitute employment as defined in Section 67-11-2 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;
 - (c) it specifies the source or sources from which the funds necessary to make the payments required by Subsections (3) and (4) are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

- (d) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;
 - (e) it provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and
 - (f) it authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by rules of the state agency and may be consistent with the provisions of the Social Security Act.
- (2) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under Subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.
- (3)
- (a) Each political subdivision as to which a plan has been approved under this section shall pay into the Contribution Fund, with respect to wages, as defined in Section 67-11-2, at such time or times as the state agency may by rule prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under Section 67-11-3.
 - (b) Each political subdivision required to make payment under Subsection (3)(a) shall, in consideration of the employees retention in, or entry upon, employment after enactment of this chapter, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in Section 67-11-2, not exceeding the amount of tax which would be imposed by Section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of such political subdivision or instrumentality under this Subsection (3). Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.
- (4) Delinquent payments due under Subsection (3) may, with interest at the rate of 4% per annum, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other money payable to such subdivision by any department, agency, or fund of the state.

Amended by Chapter 306, 2007 General Session

67-11-6 Establishment of Contribution Fund -- Powers, authority, and jurisdiction of state agency -- Withdrawals from fund -- Payments into United States Treasury.

- (1) There is hereby established a special fund to be known as the Contribution Fund. Such fund shall consist of and there shall be deposited in such fund:
- (a) all contributions, interests, and penalties collected under Sections 67-11-4 and 67-11-5;
 - (b) all money appropriated thereto under this chapter;
 - (c) any property or securities and earnings thereof acquired through the use of money belonging to the fund;
 - (d) interest earned upon any money in the fund; and

- (e) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received from the fund from any other source.
- (2) All money in the fund shall be mingled and undivided. Subject to the provisions of this chapter, the state agency is vested with full power, authority, and jurisdiction over the fund, including all money and property or securities belonging to it, and may perform any and all acts whether or not specifically designated, which are necessary to the administration of the fund and are consistent with the provisions of this chapter.
- (3) The Contribution Fund shall be established and held separate and apart from any other funds or money of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall be made for, and solely for:
 - (a) payment of amounts required to be paid to the secretary of the treasury of the United States pursuant to an agreement entered into under Section 67-11-3;
 - (b) payment of refunds provided for in Subsection 67-11-4(3); and
 - (c) refunds for overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.
- (4) The custodian of the Contribution Fund shall pay to the secretary of the treasury of the United States from the Contribution Fund such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under Section 67-11-3 and the Social Security Act.
- (5) The treasurer of the state shall be ex officio treasurer and custodian of the Contribution Fund and shall administer the fund in accordance with the provisions of this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such rules as the state agency may prescribe pursuant thereto.
- (6) In addition to the contributions collected and paid into the Contribution Fund under Sections 67-11-4 and 67-11-5, there shall be paid into the Contribution Fund such sums as are found to be necessary in order to make the payments to the secretary of the treasury which the state is obligated to make pursuant to an agreement entered into under Section 67-11-3. The amount which is necessary to make the portion of such additional payment to the secretary of the treasury which is attributable to the coverage of the employees of each department, commission, council, branch, agency, or other division or organization of the state which employs persons covered by the Social Security Act pursuant to an agreement entered into under Section 67-11-3 shall be paid from the funds which have been appropriated, authorized, or allocated to such department.

Amended by Chapter 306, 2007 General Session

67-11-8 Utah State Social Security Agency -- Creation of -- Powers and prerogatives of.

- (1) The state finance commission is hereby designated as the state agency authorized to administer this act, and for that purpose shall be known as the Utah State Social Security Agency.
- (2) The state agency shall have power to establish and maintain records, employ such personnel, accountants and attorneys and to do all things necessary to the proper administration of this act. It shall make and publish such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

No Change Since 1953

67-11-9 Studies by state agency.

The state agency shall make studies concerning the problem of old-age and survivors insurance protection for employees of the state and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this chapter.

Amended by Chapter 135, 1997 General Session

Chapter 16
Utah Public Officers' and Employees' Ethics Act

67-16-1 Short title.

This chapter is known as the "Utah Public Officers' and Employees' Ethics Act."

Amended by Chapter 147, 1989 General Session

67-16-2 Purpose of chapter.

The purpose of this chapter is to set forth standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between their public duties and their private interests. In this manner the Legislature intends to promote the public interest and strengthen the faith and confidence of the people of Utah in the integrity of their government. It does not intend to deny any public officer or employee the opportunities available to all other citizens of the state to acquire private economic or other interests so long as this does not interfere with his full and faithful discharge of his public duties.

Amended by Chapter 147, 1989 General Session

67-16-3 Definitions.

As used in this chapter:

- (1) "Agency" means any department, division, agency, commission, board, council, committee, authority, or any other institution of the state or any of its political subdivisions.
- (2) "Agency head" means the chief executive or administrative officer of any agency.
- (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.
- (4) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
- (5) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (6) "Controlled, private, or protected information" means information classified as controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

- (7) "Governmental action" means any action on the part of the state, a political subdivision, or an agency, including:
 - (a) any decision, determination, finding, ruling, or order; and
 - (b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.
- (8) "Improper disclosure" means disclosure of controlled, private, or protected information to any person who does not have the right to receive the information.
- (9) "Legislative employee" means any officer or employee of the Legislature, or any committee of the Legislature, who is appointed or employed to serve, either with or without compensation, for an aggregate of less than 800 hours during any period of 365 days. "Legislative employee" does not include legislators.
- (10) "Legislator" means a member or member-elect of either house of the Legislature of the state of Utah.
- (11) "Political subdivision" means a district, school district, or any other political subdivision of the state that is not an agency, but does not include a municipality or a county.
- (12) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by the state or any of its political subdivisions. "Public employee" does not include legislators or legislative employees.
- (13) "Public officer" means all elected or appointed officers of the state or any of its political subdivisions who occupy policymaking posts. "Public officer" does not include legislators or legislative employees.
- (14) "State" means the state of Utah.
- (15) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

Amended by Chapter 202, 2012 General Session

67-16-4 Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment that would impair independence of judgment or ethical performance -- Exception.

- (1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to:
 - (a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;
 - (b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;
 - (c) use or attempt to use his official position to:
 - (i) further substantially the officer's or employee's personal economic interest; or
 - (ii) secure special privileges or exemptions for himself or others;
 - (d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or
 - (e) accept other employment that he might expect would interfere with the ethical performance of his public duties.
- (2)

- (a) Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.
- (b) The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.
- (3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

67-16-5 Accepting gift, compensation, or loan -- When prohibited.

- (1) As used in this section, "economic benefit tantamount to a gift" includes:
 - (a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and
 - (b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.
- (2) Except as provided in Subsection (4), it is an offense for a public officer or public employee to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:
 - (a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;
 - (b) that the public officer or public employee knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the public officer or public employee for official action taken; or
 - (c) if the public officer or public employee recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section 67-16-6.
- (3) Subsection (2) does not apply to:
 - (a) an occasional nonpecuniary gift, having a value of not in excess of \$50;
 - (b) an award publicly presented in recognition of public services;
 - (c) any bona fide loan made in the ordinary course of business; or
 - (d) a political campaign contribution.
- (4) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

67-16-5.3 Requiring donation, payment, or service to government agency in exchange for approval -- When prohibited.

- (1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to demand from any person as a condition of granting any application or request for a permit, approval, or other authorization, that the person donate personal property, money, or services to any agency.
- (2)
 - (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

- (i) expressly required by statute, ordinance, or agency rule;
 - (ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;
 - (iii) made voluntarily by the applicant; or
 - (iv) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.
- (b) If a person donates property, funds, or services to an agency, the agency shall, as part of the permit or other written authorization:
- (i) identify that a donation has been made;
 - (ii) describe the donation;
 - (iii) certify, in writing, that the donation was voluntary; and
 - (iv) place that information in its files.
- (3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

67-16-5.6 Offering donation, payment, or service to government agency in exchange for approval -- When prohibited.

- (1) Except as provided in Subsection (3), it is an offense for any person to donate or offer to donate personal property, money, or services to any agency on the condition that the agency or any other agency approve any application or request for a permit, approval, or other authorization.
- (2)
- (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:
- (i) otherwise expressly required by statute, ordinance, or agency rule;
 - (ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;
 - (iii) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action; or
 - (iv) made without condition.
- (b) The person making the donation of property, funds, or services shall include with the donation a signed written statement certifying that the donation is made without condition.
- (c) The agency receiving the donation shall place the signed written statement in its files.
- (3) This section does not apply to a person who engages in conduct that constitutes a violation of this section to the extent that the person is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

67-16-6 Receiving compensation for assistance in transaction involving an agency -- Filing sworn statement.

- (1) Except as provided in Subsection (5), it is an offense for a public officer or public employee to receive or agree to receive compensation for assisting any person or business entity in any

transaction involving an agency unless the public officer or public employee files a sworn, written statement containing the information required by Subsection (2) with:

- (a) the head of the officer or employee's own agency;
 - (b) the agency head of the agency with which the transaction is being conducted; and
 - (c) the state attorney general.
- (2) The statement shall contain:
- (a) the name and address of the public officer or public employee involved;
 - (b) the name of the public officer's or public employee's agency;
 - (c) the name and address of the person or business entity being or to be assisted; and
 - (d) a brief description of:
 - (i) the transaction as to which service is rendered or is to be rendered; and
 - (ii) the nature of the service performed or to be performed.
- (3) The statement required to be filed under Subsection (1) shall be filed within 10 days after the date of any agreement between the public officer or public employee and the person or business entity being assisted or the receipt of compensation, whichever is earlier.
- (4) The statement is public information and shall be available for examination by the public.
- (5) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

67-16-7 Disclosure of substantial interest in regulated business.

- (1) Every public officer or public employee who is an officer, director, agent, employee, or the owner of a substantial interest in any business entity which is subject to the regulation of the agency by which the officer or employee is employed, shall disclose any such position held and the precise nature and value of the public officer's or public employee's interest upon first becoming a public officer or public employee, and again whenever the public officer's or public employee's position in the business entity changes significantly or if the value of his interest in the entity is significantly increased.
- (2) The disclosure required under Subsection (1) shall be made in a sworn statement filed with:
- (a) the state attorney general in the case of public officers and public employees of the state;
 - (b) the chief governing body of the political subdivision in the case of public officers and public employees of a political subdivision;
 - (c) the head of the agency with which the public officer or public employee is affiliated; and
 - (d) in the case of a public employee, with the immediate supervisor of the public employee.
- (3) This section does not apply to instances where the total value of the interest does not exceed \$2,000. Life insurance policies and annuities shall not be considered in determining the value of any such interest.
- (4) Disclosures made under this section are public information and shall be available for examination by the public.

Amended by Chapter 147, 1989 General Session

67-16-8 Participation in transaction involving business as to which public officer or employee has interest -- Exceptions.

- (1) No public officer or public employee shall participate in his official capacity or receive compensation in respect to any transaction between the state or any of its agencies and any

business entity as to which such public officer or public employee is also an officer, director, or employee or owns a substantial interest, unless disclosure has been made as provided under Section 67-16-7.

- (2) A concession contract between an agency, political subdivision, or the state and a certified professional golf association member who is a public employee or officer does not violate the provisions of Subsection (1) or Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act.

Amended by Chapter 93, 1990 General Session

67-16-9 Conflict of interests prohibited.

No public officer or public employee shall have personal investments in any business entity which will create a substantial conflict between his private interests and his public duties.

Enacted by Chapter 128, 1969 General Session

67-16-10 Inducing others to violate chapter.

No person shall induce or seek to induce any public officer or public employee to violate any of the provisions of this chapter.

Amended by Chapter 147, 1989 General Session

67-16-11 Applicability of provisions.

The provisions of this chapter apply to all public officers and public employees.

Amended by Chapter 92, 1998 General Session

67-16-12 Penalties for violation -- Removal from office or dismissal from employment.

In addition to any penalty contained in any other provision of law:

- (1) any public officer or public employee who knowingly and intentionally violates this chapter, with the exception of Sections 67-16-6 and 67-16-7, shall be dismissed from employment or removed from office as provided by law, rule, or policy within the agency; and
- (2) any public officer, public employee, or person who knowingly and intentionally violates this chapter, with the exception of Sections 67-16-6 and 67-16-7, shall be punished as follows:
 - (a) as a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;
 - (b) as a felony of the third degree if:
 - (i) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or
 - (ii) the public officer or public employee has been twice before convicted of violation of this chapter and the value of the conflict of interest, compensation, or assistance was \$250 or less;
 - (c) as a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or
 - (d) as a class B misdemeanor if the value of the compensation or assistance was \$100 or less.

Amended by Chapter 108, 2000 General Session

67-16-14 Unethical transactions -- Duty to dismiss officer or employee -- Right to rescind or void contract.

If any transaction is entered into in violation of Section 67-16-6, 67-16-7, or 67-16-8, the state, political subdivision, or agency involved:

- (1) shall dismiss the public officer or public employee who knowingly and intentionally violates this chapter from employment or office as provided by law; and
- (2) may rescind or void any contract or subcontract entered into in respect to such transaction without returning any part of the consideration that the state, political subdivision, or agency has received.

Amended by Chapter 147, 1989 General Session

67-16-15 Complaint -- Political Subdivisions Ethics Review Commission.

A person may file a complaint for an alleged violation of this chapter by a political subdivision officer or employee in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission.

Enacted by Chapter 202, 2012 General Session

Chapter 18

Employees' Personnel Files

67-18-1 Right to examine and copy documents.

It is the purpose of this act to provide public employees in the state with the right to examine and make copies of documents in their own personnel files.

Enacted by Chapter 259, 1977 General Session

67-18-2 Definitions.

As used in this act:

- (1) "Employer" means the state and its political subdivisions.
- (2) "Employee" means any person employed by the employer.
- (3) "Representative" means any person designated in writing by an employee to represent such employee in a grievance or other employment matter.

Enacted by Chapter 259, 1977 General Session

67-18-3 Written request for production of file.

Upon receipt of a written request from an employee to examine such employee's personnel file, the employer shall produce the file for inspection and copying.

Enacted by Chapter 259, 1977 General Session

67-18-4 Cost of copying.

The cost of copying shall be paid by the employee.

Enacted by Chapter 259, 1977 General Session

67-18-5 Confidential, private, or protected documents excepted.

The right to examine and copy documents in an employee's personnel file is subject to access provisions in Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 382, 2008 General Session

Chapter 19

Utah State Personnel Management Act

67-19-1 Short title.

This chapter shall be known and may be cited as the "Utah State Personnel Management Act."

Enacted by Chapter 139, 1979 General Session

67-19-3 Definitions.

As used in this chapter:

- (1) "Agency" means any department or unit of Utah state government with authority to employ personnel.
- (2) "Career service" means positions under schedule B as defined in Section 67-19-15.
- (3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.
- (4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.
- (5) "Classified service" means those positions subject to the classification and compensation provisions of Section 67-19-12.
- (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.
- (7)
 - (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.
 - (b) "Demotion" does not mean:
 - (i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or
 - (ii) a reclassification of an employee's position under the provisions of Subsection 67-19-12(3) and rules made by the department.
- (8) "Department" means the Department of Human Resource Management.
- (9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.
- (10) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.
- (11) "Examining instruments" means written or other types of proficiency tests.
- (12) "Executive director," except where otherwise specified, means the executive director of the Department of Human Resource Management.
- (13) "Human resource function" means those duties and responsibilities specified:
 - (a) under Section 67-19-6;

- (b) under rules of the department; and
- (c) under other state or federal statute.
- (14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.
- (15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.
- (16) "Probationary period" means that period of time determined by the department that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.
- (17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.
- (18) "Structure adjustment" means a department modification of salary ranges.
- (19) "Temporary employee" means career service exempt employees described in Subsection 67-19-15(1)(p).
- (20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Amended by Chapter 155, 2015 General Session

67-19-3.1 Principles guiding interpretation of chapter and adoption of rules.

- (1) The department shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:
 - (a) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
 - (b) providing for equitable and competitive compensation;
 - (c) training employees as needed to assure high-quality performance;
 - (d) retaining employees on the basis of the adequacy of their performance and separating employees whose inadequate performance cannot be corrected;
 - (e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;
 - (f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and
 - (g) providing a formal procedure for advancing grievances of employees:
 - (i) without discrimination, coercion, restraint, or reprisal; and
 - (ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.
- (2) The principles in Subsection (1) shall govern interpretation and implementation of this chapter.

Amended by Chapter 249, 2010 General Session

67-19-4 Discriminatory or prohibited employment practices.

The state, its officers, and employees shall be governed by the provisions of Section 34A-5-106 of the Utah Antidiscrimination Act concerning discriminatory or prohibited employment practices.

Amended by Chapter 65, 2003 General Session

67-19-5 Department of Human Resource Management created -- Executive director -- Compensation -- Staff.

- (1) There is created the Department of Human Resource Management.
- (2)
 - (a) The department shall be administered by an executive director appointed by the governor with the consent of the Senate.
 - (b) The executive director shall be a person with experience in human resource management and shall be accountable to the governor for the executive director's performance in office.
- (3) The executive director may:
 - (a) appoint a personal secretary and a deputy director, both of whom shall be exempt from career service; and
 - (b) appoint division directors and program managers who may be career service exempt.
- (4)
 - (a) The executive director shall have full responsibility and accountability for the administration of the statewide human resource management system.
 - (b) Except as provided in Section 67-19-6.1, an agency may not perform human resource functions without the consent of the executive director.
- (5) Statewide human resource management rules adopted by the Department of Human Resource Management in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.
- (6) The department may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the department provides.

Amended by Chapter 183, 2009 General Session

67-19-6 Responsibilities of the executive director.

- (1) The executive director shall:
 - (a) develop, implement, and administer a statewide program of human resource management that will:
 - (i) aid in the efficient execution of public policy;
 - (ii) foster careers in public service for qualified employees; and
 - (iii) render assistance to state agencies in performing their missions;
 - (b) design and administer the state pay plan;
 - (c) design and administer the state classification system and procedures for determining schedule assignments;
 - (d) design and administer the state recruitment and selection system;
 - (e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;
 - (f) consult with agencies on decisions concerning employee corrective action and discipline;
 - (g) maintain central personnel records;
 - (h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;
 - (i) perform duties assigned by the governor or statute;
 - (j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

- (l) conduct research and planning activities to:
 - (i) determine and prepare for future state human resource needs;
 - (ii) develop methods for improving public human resource management; and
 - (iii) propose needed policy changes to the governor;
 - (m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;
 - (n) when requested by counties, municipalities, and other political subdivisions of the state, provide technical service and advice on human resource management at a charge determined by the executive director;
 - (o) establish compensation policies and procedures for early voluntary retirement;
 - (p) confer with the heads of other agencies about human resource policies and procedures;
 - (q) submit an annual report to the governor and the Legislature; and
 - (r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).
- (2)
- (a) After consultation with the governor and the heads of other agencies, the executive director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.
 - (b) The programs developed under this Subsection (2) shall have application to more than one agency.
 - (c) The department may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.
- (3)
- (a)
 - (i) The department may collect fees for training as authorized by this Subsection (3).
 - (ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.
 - (iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.
 - (iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.
 - (b)
 - (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.
 - (ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Amended by Chapter 175, 2015 General Session

67-19-6.1 Department field offices.

- (1) The executive director of the Department of Human Resource Management may establish a field office in an agency.
- (2) The executive director may assign an employee of the department to act as field office staff.
- (3) The executive director and agency head shall sign an agreement, to be reviewed annually, that specifies:
 - (a) the services to be provided by the department;
 - (b) the use of agency facilities and equipment by the field office;

- (c) protocols to resolve discrepancies between agency practice and Department of Human Resource Management policy; and
 - (d) any other issue necessary for the proper functioning of the field office.
- (4) Unless otherwise provided for in the field office agreement, the agency shall:
- (a) assign responsibilities and duties to its employees;
 - (b) conduct performance appraisals;
 - (c) discipline its employees in consultation with the department; and
 - (d) maintain individual personnel records.

Amended by Chapter 249, 2010 General Session

67-19-6.3 Equal employment opportunity plan.

- (1) In conjunction with the director's duties under Section 67-19-6, and notwithstanding the general prohibition in Subsection 34A-5-106(3)(c), the executive director shall prepare an equal employment opportunity plan for state employment consistent with the guidelines provided in federal equal employment opportunity laws and in related federal regulations.
- (2) The equal employment opportunity plan required by this section applies only to state career service employees described in Section 67-19-15.
- (3) The Legislature shall review the equal employment opportunity plan required by this section before it may be implemented.
- (4) Nothing in this section requires the establishment of hiring quotas or preferential treatment of any identifiable group.

Amended by Chapter 139, 2006 General Session

67-19-6.7 Overtime policies for state employees.

- (1) As used in this section:
 - (a) "Accrued overtime hours" means:
 - (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and
 - (ii) for exempt employees, overtime hours earned during an overtime year.
 - (b) "Appointed official" means:
 - (i) each department executive director and deputy director, each division director, and each member of a board or commission; and
 - (ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:
 - (A) is paid a salary by the state; and
 - (B) who exercises managerial, policy-making, or advisory responsibility.
 - (c) "Department" means the Department of Administrative Services, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the State Board of Education, the Department of Natural Resources, the Department of Technology Services, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Heritage and Arts, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Department of Human Resource Management, the

Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans' and Military Affairs, and the Board of Pardons and Parole.

- (d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.
- (e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
- (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
- (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.
- (h) "Nonexempt employee" means a state employee who is nonexempt as defined by the Department of Human Resource Management applying FLSA requirements.
- (i) "Overtime" means actual time worked in excess of the employee's defined work period.
- (j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.
- (k) "State employee" means every person employed by a department who is not:
 - (i) an appointed official;
 - (ii) an elected official;
 - (iii) a member of a board or commission who is paid only for per diem or travel expenses; or
 - (iv) employed on a contractual basis at the State Office of Education.
- (l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.
- (m) "Work period" means:
 - (i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;
 - (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and
 - (iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
- (2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.
- (3)
 - (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.
 - (b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:
 - (i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or
 - (ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.
 - (c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the Department of Human Resource Management.
 - (d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.
 - (e) Each department shall:

- (i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and
 - (ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.
 - (f) If the department pays a nonexempt employee for overtime, the department shall charge that payment to the department's budget.
 - (g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.
- (4)
- (a)
 - (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.
 - (ii) The executive director of the Department of Human Resource Management may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if the department has funds available.
 - (b)
 - (i) Each department shall:
 - (A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and
 - (B) communicate the uniform annual date to its employees.
 - (ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the executive director of the Department of Human Resource Management, in conjunction with the director of the Division of Finance, shall establish the date for that department.
 - (c)
 - (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.
 - (ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.
 - (d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:
 - (i) any of an exempt employee's overtime that is more than the maximum established by the Department of Human Resource Management rule lapses; and
 - (ii) unless authorized by the executive director of the Department of Human Resource Management under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.
 - (e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.
 - (f) If the department pays an exempt employee for overtime under authorization from the executive director of the Department of Human Resource Management, the department shall charge that payment to the department's budget in the pay period earned.
- (5) The Department of Human Resource Management shall:
- (a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

- (b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;
 - (c) in coordination with modifications to the systems operated by the Division of Finance, make rules:
 - (i) establishing procedures for recording overtime worked that comply with FLSA requirements;
 - (ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;
 - (iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;
 - (iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;
 - (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;
 - (vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and
 - (vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the Department of Human Resource Management as required by this section;
 - (d) monitor departments for compliance with the FLSA; and
 - (e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.
- (6) In coordination with the procedures for recording overtime worked established in rule by the Department of Human Resource Management, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.
- (a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the Department of Human Resource Management as required by this section may appeal that determination to the executive director of the Department of Human Resource Management by following the procedures and requirements established in Department of Human Resource Management rule.
 - (b) Upon receipt of an appeal under this section, the executive director shall notify the executive director of the employee's department that the appeal has been filed.
 - (c) If the employee is aggrieved by the decision of the executive director of the Department of Human Resource Management, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Amended by Chapter 214, 2013 General Session

67-19-11 Use of department facilities -- Field office facilities cost allocation -- Funding for department.

- (1)
 - (a) All officers and employees of the state and its political subdivisions shall allow the department to use public buildings under their control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.
 - (b) The cost of the department's use of facilities shall be paid by the agency housing a field office staff.
- (2) The executive director shall:

- (a) prepare an annual budget request for the department;
 - (b) submit the budget request to the governor and the Legislature; and
 - (c) before charging a fee for services provided by the department's internal service fund to an executive branch agency, the executive director shall:
 - (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and
 - (ii) obtain the approval of the Legislature as required under Section 63J-1-410.
- (3)
- (a) There is created a Rate Committee which shall consist of:
 - (i) the executive director of the Governor's Office of Management and Budget, or a designee;
 - (ii) the executive directors of three state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term;
 - (iii) the director of the Division of Finance, or a designee;
 - (iv) the executive director of the Department of Human Resource Management, or a designee; and
 - (v) the attorney general or designee.
 - (b)
 - (i) The committee shall elect a chair from its members, except that the chair may not be from an agency that receives payment of a rate set by the committee.
 - (ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.
 - (c) The Department of Human Resource Management shall provide staff services to the committee.
- (4)
- (a) The department shall submit to the committee a proposed rate and fee schedule for:
 - (i) human resource management services rendered; and
 - (ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office.
 - (b) The committee shall:
 - (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;
 - (ii) review the proposed rate and fee schedules and may approve, increase, or decrease the rate and fee;
 - (iii) recommend a proposed rate and fee schedule for the internal service fund to:
 - (A) the Governor's Office of Management and Budget; and
 - (B) the legislative appropriations subcommittees that, in accordance with Section 63J-1-410, approve the internal service fund rates, fees, and budget; and
 - (iv) review and approve, increase or decrease an interim rate, fee, or amount when the department begins a new service or introduces a new product between annual general sessions of the Legislature.
 - (c) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature.

Amended by Chapter 310, 2013 General Session

67-19-12 State pay plans -- Applicability of section -- Exemptions -- Duties of the executive director.

- (1)
 - (a) This section, and the rules adopted by the department to implement this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).
 - (b) If not exempted under Subsection (2), an employee is considered to be in classified service.
- (2) The following employees are exempt from this section:
 - (a) members of the Legislature and legislative employees;
 - (b) members of the judiciary and judicial employees;
 - (c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 67-19-15(1)(c);
 - (d) employees of the State Board of Education who are licensed by the State Board of Education;
 - (e) officers, faculty, and other employees of state institutions of higher education;
 - (f) employees in a position that is specified by statute to be exempt from this Subsection (2);
 - (g) employees in the Office of the Attorney General;
 - (h) department heads and other persons appointed by the governor under statute;
 - (i) schedule AS employees as provided under Subsection 67-19-15(1)(l);
 - (j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 67-19-15(1)(d);
 - (k) employees that determine and execute policy designated as schedule AR as provided under Subsection 67-19-15(1)(k);
 - (l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 67-19-15(1)(f);
 - (m) temporary employees described in Subsection 67-19-15(1)(p);
 - (n) patients and inmates designated as schedule AU as provided under Subsection 67-19-15(1)(n) who are employed by state institutions; and
 - (o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 67-19-15(1)(j).
- (3)
 - (a) The executive director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.
 - (b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.
 - (c) The executive director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.
- (d)
 - (i) The department shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.
 - (ii) The executive director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.
- (4)
 - (a) With the approval of the governor, the executive director shall develop and adopt pay plans for each position in classified service.

- (b) The executive director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.
 - (c) The executive director shall adhere to the following in developing each pay plan:
 - (i) Each pay plan shall consist of sufficient salary ranges to:
 - (A) permit adequate salary differential among the various classes of positions in the classification plan; and
 - (B) reflect the normal growth and productivity potential of employees in that class.
 - (ii) The executive director shall issue rules for the administration of pay plans.
 - (d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a, Grievance Procedures, or otherwise.
 - (e) The executive director shall issue rules providing for:
 - (i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;
 - (ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and
 - (iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.
 - (f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.
- (5)
- (a) By October 31 of each year, the executive director shall submit an annual compensation plan to the governor for consideration in the executive budget.
 - (b) The plan described in Subsection (5)(a) may include recommendations, including:
 - (i) salary increases that generally affect employees, including a general increase or merit increase;
 - (ii) salary increases that address compensation issues unique to an agency or occupation;
 - (iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or
 - (iv) changes to employee benefits.
 - (c)
 - (i)
 - (A) Subject to Subsection (5)(c)(i)(B) or (C), the executive director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.
 - (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.
 - (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.
 - (ii) The executive director may cooperate with or participate in any survey conducted by other public and private employers.
 - (iii) The executive director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include

employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

- (iv) The department shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.
 - (d) The executive director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.
 - (e) The executive director shall:
 - (i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and
 - (ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.
 - (f)
 - (i) Upon request and subject to Subsection (5)(f)(ii), the department shall make available foundational information used by the department or director in the drafting of a plan described in Subsection (5)(a), including:
 - (A) demographic and labor market information;
 - (B) information on employee turnover;
 - (C) salary information;
 - (D) information on recruitment; and
 - (E) geographic data.
 - (ii) The department may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.
 - (g) The governor shall:
 - (i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;
 - (ii) submit compensation recommendations to the Legislature; and
 - (iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.
 - (h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.
- (6)
- (a) The executive director shall issue rules for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.
 - (b) An agency may not grant a market-based award unless the award is previously approved by the department.
 - (c) In accordance with Subsection (6)(b), an agency requesting the department's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the department.
 - (d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the department:
 - (i) any benefit the market-based award would provide for the agency, including:
 - (A) budgetary advantages; or
 - (B) recruitment advantages;
 - (ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

- (iii) any other advantage the agency would gain through the utilization of a market-based award.
- (7)
- (a) The executive director shall regularly evaluate the total compensation program of state employees in the classified service.
 - (b) The department shall determine if employee benefits are comparable to those offered by other private and public employers using information from:
 - (i) a study conducted by a third-party consultant; or
 - (ii) the most recent edition of a nationally recognized benefits survey.

Amended by Chapter 155, 2015 General Session

67-19-12.2 Education benefit plan for law enforcement and correctional officers.

- (1) As used in this section, "law enforcement officer" has the same meaning as in Section 53-13-103 and "correctional officer" has the same meaning as in Section 53-13-104.
- (2) The executive director shall establish a plan authorizing any agency to implement an educational compensation program for law enforcement officers and correctional officers employed by that agency.
- (3) The program shall provide that in order for a law enforcement officer or correctional officer to qualify for education benefits for college or university education, the law enforcement officer or correctional officer shall:
 - (a) provide a certified transcript of grades, demonstrating a grade point average of 3.0 or greater, from an accredited college or university; and
 - (b) have successfully completed the probationary employment period with the employing agency.
- (4) The program shall also provide that the agency may consider a law enforcement officer or correctional officer to receive additional compensation as follows for higher education degrees earned on or after April 30, 2001, in a subject area directly related to the law enforcement officer's or correctional officer's employment with the agency:
 - (a) 5.5% for an associate's degree;
 - (b) 5.5% for a bachelor's degree; and
 - (c) 5.5% for a master's degree.
- (5) Expenses incurred by an agency to provide additional compensation under this section may be only from the agency's existing budget.

Amended by Chapter 249, 2010 General Session

67-19-12.5 Creation of Flexible Benefit Program -- Rulemaking power granted to establish program.

- (1) The department shall establish for calendar year 1990 and thereafter a Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.
- (2) The department shall establish accounts for all employees eligible for benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.
- (3)
 - (a) Each account established under this section shall include employee paid premiums for health and dental services.
 - (b) The account may also include, at the option of the employee, out-of-pocket employee medical and dependent care expenses.
 - (c) Accounts may also include other expenses allowed under the Internal Revenue Code of 1986.

- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the program established under this section.

Amended by Chapter 382, 2008 General Session

67-19-12.7 Accumulated annual leave -- Conversion to deferred compensation plan.

- (1) The department shall implement a program whereby an employee may, upon termination of employment or retirement, elect to convert any unused annual leave into any of the employee's designated deferred compensation accounts that:
 - (a) are sponsored by the Utah State Retirement Board; and
 - (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.
- (2) Any annual leave converted under Subsection (1) shall be converted into the employee's deferred compensation account at the employee's pay rate at the time of termination or retirement.
- (3) No employee may convert hours of accrued annual leave to the extent that any hours so converted would exceed the maximum amount authorized by the Internal Revenue Code for each calendar year.

Amended by Chapter 139, 2006 General Session

67-19-12.9 Accumulated annual leave -- Annual conversion to deferred compensation plan.

- (1) If the Legislature in an annual appropriations act with accompanying intent language specifically authorizes and fully funds the estimated costs of this use, the department shall implement a program that allows an employee, in the approved calendar year, to elect to convert up to 20 hours of annual leave, in whole hour increments not to exceed \$250 in value, into any of the employee's designated deferred compensation accounts that:
 - (a) are sponsored by the Utah State Retirement Board; and
 - (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.
- (2) Any annual leave converted under Subsection (1) shall be:
 - (a) converted into the employee's deferred compensation account at the employee's pay rate at the time of conversion; and
 - (b) calculated in the last pay period of the leave year as determined by the Division of Finance.
- (3) An employee may not convert hours of accrued annual leave to the extent that any hours converted would:
 - (a) exceed the maximum amount authorized by the Internal Revenue Code for the calendar year; or
 - (b) cause the employee's balance of accumulated annual leave to drop below the maximum accrual limit provided by rule.

Amended by Chapter 139, 2006 General Session

67-19-13 Examination of payrolls and certification of employee eligibility by the executive director.

- (1) The executive director may examine payrolls at any time to determine conformity with this chapter and the regulations.
- (2) No new employee shall be hired in a position covered by this chapter, and no employee shall be changed in pay, title or status, nor shall any employee be paid unless certified by the

executive director as eligible under the provisions of or regulations promulgated pursuant to this chapter.

Amended by Chapter 139, 2006 General Session

67-19-13.5 Department provides payroll services to executive branch agencies -- Report.

(1) As used in this section:

(a)

(i) "Executive branch entity" means a department, division, agency, board, or office within the executive branch of state government that employs a person who is paid through the central payroll system developed by the Division of Finance as of December 31, 2011.

(ii) "Executive branch entity" does not include:

- (A) the Office of the Attorney General;
- (B) the Office of the State Treasurer;
- (C) the Office of the State Auditor;
- (D) the Department of Transportation;
- (E) the Department of Technology Services;
- (F) the Department of Public Safety;
- (G) the Department of Natural Resources; or
- (H) the Utah Schools for the Deaf and the Blind.

(b)

(i) "Payroll services" means using the central payroll system as directed by the Division of Finance to:

- (A) enter and validate payroll reimbursements, which include reimbursements for mileage, a service award, and other wage types;
- (B) calculate, process, and validate a retirement;
- (C) enter a leave adjustment; and
- (D) certify payroll by ensuring an entry complies with a rule or policy adopted by the department or the Division of Finance.

(ii) "Payroll services" does not mean:

- (A) a function related to payroll that is performed by an employee of the Division of Finance;
- (B) a function related to payroll that is performed by an executive branch agency on behalf of a person who is not an employee of the executive branch agency;
- (C) the entry of time worked by an executive branch agency employee into the central payroll system; or
- (D) approval or verification by a supervisor or designee of the entry of time worked.

(2) The department shall provide payroll services to all executive branch entities.

(3) After September 19, 2012, an executive branch entity, other than the department or the Division of Finance, may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position for the purpose of providing payroll services to the entity.

(4) The Department of Transportation, the Department of Technology Services, and the Department of Natural Resources shall report on the inability to transfer payroll services to the department or the progress of transferring payroll services to the department:

- (a) to the Government Operations Interim Committee before October 30, 2012; and
- (b) to the Infrastructure and General Government Appropriations Subcommittee on or before February 11, 2013.

Amended by Chapter 393, 2015 General Session

67-19-14 Sick leave -- Definitions -- Unused sick days retirement programs -- Rulemaking.

- (1) As used in this section through Section 67-19-14.4:
 - (a) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:
 - (i) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and
 - (ii) coverage level for a member, two person, or family policy as provided to the member at the time of retirement.
 - (b) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 67-19-14.1 which may be used by an employee in the same manner as:
 - (i) annual leave;
 - (ii) sick leave; or
 - (iii) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 67-19-14.2, 67-19-14.3, and 67-19-14.4.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules:
 - (a) for the procedures to implement the provisions of this section through Section 67-19-14.4; and
 - (b) to establish the maximum number of hours of converted sick leave an employee may accrue.
- (3) The Division of Finance shall develop and maintain a system of accounting for employee sick leave and converted sick leave as necessary to implement the provisions of this section through Section 67-19-14.4.

Amended by Chapter 109, 2013 General Session

67-19-14.1 Converted sick leave.

Converted sick leave hours that are not used prior to an employee's retirement date shall be used under the:

- (1) Unused Sick Leave Retirement Option Program I under Section 67-19-14.2 if earned prior to January 1, 2006, unless the transfer is made under Subsection 67-19-14.4(1)(c); or
- (2) Unused Sick Leave Retirement Option Program II under Section 67-19-14.4 if earned on or after January 1, 2006.

Amended by Chapter 155, 2015 General Session

67-19-14.2 Unused Sick Leave Retirement Option Program -- Creation -- Payout upon eligibility for allowance -- Continuing medical and life insurance benefits after retirement.

- (1)
 - (a) There is created the "Unused Sick Leave Retirement Option Program I."
 - (b) An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.

- (2) The Unused Sick Leave Retirement Option Program I provides that upon becoming eligible to receive a retirement allowance an employee who was employed by the state prior to January 1, 2006:
- (a) receives a contribution under Subsection (3) for 25% of the employee's unused accumulated sick leave accrued prior to January 1, 2006, at the employee's rate of pay at the time of retirement; and
 - (b) may purchase additional continuing medical and life insurance benefits in accordance with Subsection (4).
- (3)
- (a) Subject to federal requirements and limitations, the contribution under Subsection (2)(a) shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board.
 - (b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution limitations, the employee's unused accumulated sick leave hours representing the excess shall be used for the purchase of continuing medical and life insurance benefits under Subsection (4).
- (4)
- (a) An employee may purchase continuing medical and life insurance benefits, at the rate of one month's coverage per policy for eight hours of unused sick leave remaining after the contribution of unused sick leave under Subsection (2)(a).
 - (b) The medical coverage level for member, two person, or family coverage that is provided to the member at the time of retirement is the maximum coverage level available to the member under this program.
 - (c) The purchase of continuing medical and life insurance benefits at the rate provided under Subsection (4)(a) may be used by the employee to extend coverage:
 - (i) until the employee reaches the age of eligibility for Medicare; or
 - (ii) if the employee has reached the age of eligibility for Medicare, continuing medical benefits for the employee's spouse may be purchased until the employee's spouse reaches the age of eligibility for Medicare.
 - (d) An employee and the employee's spouse who are or who later become eligible for Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage for eight hours of the employee's unused sick leave per person.
- (5)
- (a) The continuing medical and life insurance benefits purchased by an employee under Subsection (4):
 - (i) may not be suspended or deferred for future use; and
 - (ii) continues in effect until exhausted.
 - (b) An employer participating in the Program I benefits under this section may not provide medical or life insurance benefits to a person who is:
 - (i) reemployed after retirement; and
 - (ii) receiving benefits under this section.

Amended by Chapter 277, 2013 General Session

67-19-14.3 Continuation of Insurance Benefits Program -- Creation -- Coverage following death in the line of duty.

- (1) There is created the "Continuation of Insurance Benefits Program" to provide a continuation of insurance to the surviving spouse and family of any state employee whose death occurs in the line of duty.

- (2) The insurance coverage shall be the same coverage as provided under Section 49-20-406.
- (3) The program provides that unused accumulated sick leave of a deceased employee may be used for additional medical coverage in the same manner as provided under Section 67-19-14.2 or 67-19-14.4 as applicable.

Amended by Chapter 15, 2005 General Session

Amended by Chapter 114, 2005 General Session

67-19-14.4 Unused Sick Leave Retirement Program II -- Creation -- Remuneration upon eligibility for allowance -- Medical expense account after retirement.

- (1)
 - (a) There is created the "Unused Sick Leave Retirement Program II."
 - (b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.
 - (c) An employee who is participating in the Unused Sick Leave Retirement Program I under Section 67-19-14.2 may make a one-time and irrevocable election to transfer all unused sick leave hours which shall include all converted sick leave hours under Section 67-19-14.1 for use under the Unused Sick Leave Retirement Program II under this section.
- (2)
 - (a) The Unused Sick Leave Retirement Program II provides that upon becoming eligible to receive a retirement allowance an employee employed by the state between January 1, 2006, and January 3, 2014, shall receive remuneration for the employee's unused accumulated sick leave and converted sick leave accrued between January 1, 2006, and January 3, 2014, in accordance with this section as follows:
 - (i) subject to federal requirements and limitations, a contribution at the employee's rate of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and converted sick leave shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board; and
 - (ii) participation in a benefit plan that provides for reimbursement for medical expenses using money deposited at the employee's rate of pay at the time of retirement from remaining unused accumulated sick leave and converted sick leave balances.
 - (b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).
 - (c) An employee's rate of pay at the time of retirement for purposes of Subsection (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act, during the previous calendar year.
- (3) The Utah State Retirement Office shall develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii) with:
 - (a) money deposited under Subsection (2)(a)(ii); and
 - (b) accrued earnings.

Amended by Chapter 277, 2013 General Session

67-19-14.5 Organ donor leave.

- (1) An employee who serves as a bone marrow donor shall be granted a paid leave of absence of up to seven days that are necessary for the donation and recovery from the donation.
- (2) An employee who serves as a donor of a human organ shall be granted a paid leave of absence of up to 30 days that are necessary for the donation and recovery from the donation.

Enacted by Chapter 310, 2002 General Session

67-19-14.6 Annual leave -- Definitions -- Previously accrued hours -- Recognition of liability.

- (1) As used in this section:
 - (a)
 - (i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.
 - (ii) "Annual leave II" does not include:
 - (A) legal holidays under Section 63G-1-301;
 - (B) time off as compensation for actual time worked in excess of an employee's defined work period;
 - (C) sick leave;
 - (D) paid or unpaid administrative leave; or
 - (E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.
 - (b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.
- (2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.
- (3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave under the same rules that applied to the leave on the change date.
- (4)
 - (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.
 - (b) The rules made under Subsection (4)(a) shall consider:
 - (i) the employee hourly rate of pay;
 - (ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;
 - (iii) other applicable employer paid benefits; and
 - (iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.
 - (c) The Division of Finance shall provide that the amount of costs set aside under Subsection (4)(a) and deposited into the fund increase by at least the projected increase in annual leave liability for that year, until the year-end trust fund balances are reached as required under Subsection 67-19f-201(3)(b).
- (5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

- (6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) the department shall make rules for the accrual and use of annual leave II provided under this section; and
 - (b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

Amended by Chapter 368, 2015 General Session

Superseded 1/1/2016

67-19-15 Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

- (1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:
 - (a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;
 - (b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;
 - (c) schedule AC includes all employees and officers in:
 - (i) the office and at the residence of the governor;
 - (ii) the Utah Science Technology and Research Initiative (USTAR);
 - (iii) the Public Lands Policy Coordinating Council;
 - (iv) the Office of the State Auditor; and
 - (v) the Office of the State Treasurer;
 - (d) schedule AD includes employees who:
 - (i) are in a confidential relationship to an agency head or commissioner; and
 - (ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;
 - (e) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;
 - (f) schedule AH includes:
 - (i) teaching staff of all state institutions; and
 - (ii) employees of the Utah Schools for the Deaf and the Blind who are:
 - (A) educational interpreters as classified by the department; or
 - (B) educators as defined by Section 53A-25b-102;
 - (g) schedule AN includes employees of the Legislature;
 - (h) schedule AO includes employees of the judiciary;
 - (i) schedule AP includes all judges in the judiciary;
 - (j) schedule AQ includes:
 - (i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;
 - (ii) other local officials serving in an ex officio capacity; and
 - (iii) officers, faculty, and other employees of state universities and other state institutions of higher education;
 - (k) schedule AR includes employees in positions that involve responsibility:
 - (i) for determining policy;

- (ii) for determining the way in which a policy is carried out; or
 - (iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;
 - (l) schedule AS includes any other employee:
 - (i) whose appointment is required by statute to be career service exempt;
 - (ii) whose agency is not subject to this chapter; or
 - (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;
 - (m) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;
 - (n) schedule AU includes patients and inmates employed in state institutions;
 - (o) employees of the Department of Workforce Services, designated as schedule AW:
 - (i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or
 - (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and
 - (p) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.
- (2) The civil service shall consist of two schedules as follows:
- (a)
 - (i) Schedule A is the schedule consisting of positions under Subsection (1).
 - (ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
 - (b) Schedule B is the competitive career service schedule, consisting of:
 - (i) all positions filled through competitive selection procedures as defined by the executive director; or
 - (ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability or a veteran as defined in Section 71-10-1.
- (3)
- (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.
 - (b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.
 - (c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.
- (4)
- (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.
 - (b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.
 - (c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance,

Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

- (d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.
- (5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:
 - (a) remains in the position that the employee is in on June 30, 2010; and
 - (b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Amended by Chapter 154, 2014 General Session

Effective 1/1/2016

67-19-15 Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

- (1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:
 - (a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;
 - (b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;
 - (c) schedule AC includes all employees and officers in:
 - (i) the office and at the residence of the governor;
 - (ii) the Utah Science Technology and Research Initiative (USTAR);
 - (iii) the Public Lands Policy Coordinating Council;
 - (iv) the Office of the State Auditor; and
 - (v) the Office of the State Treasurer;
 - (d) schedule AD includes employees who:
 - (i) are in a confidential relationship to an agency head or commissioner; and
 - (ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;
 - (e) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;
 - (f) schedule AH includes:
 - (i) teaching staff of all state institutions; and
 - (ii) employees of the Utah Schools for the Deaf and the Blind who are:
 - (A) educational interpreters as classified by the department; or
 - (B) educators as defined by Section 53A-25b-102;
 - (g) schedule AN includes employees of the Legislature;
 - (h) schedule AO includes employees of the judiciary;
 - (i) schedule AP includes all judges in the judiciary;
 - (j) schedule AQ includes:
 - (i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;
 - (ii) a water commissioner appointed under Section 73-5-1;
 - (iii) other local officials serving in an ex officio capacity; and

- (iv) officers, faculty, and other employees of state universities and other state institutions of higher education;
 - (k) schedule AR includes employees in positions that involve responsibility:
 - (i) for determining policy;
 - (ii) for determining the way in which a policy is carried out; or
 - (iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;
 - (l) schedule AS includes any other employee:
 - (i) whose appointment is required by statute to be career service exempt;
 - (ii) whose agency is not subject to this chapter; or
 - (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;
 - (m) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;
 - (n) schedule AU includes patients and inmates employed in state institutions;
 - (o) employees of the Department of Workforce Services, designated as schedule AW:
 - (i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or
 - (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and
 - (p) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.
- (2) The civil service shall consist of two schedules as follows:
- (a)
 - (i) Schedule A is the schedule consisting of positions under Subsection (1).
 - (ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
 - (b) Schedule B is the competitive career service schedule, consisting of:
 - (i) all positions filled through competitive selection procedures as defined by the executive director; or
 - (ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability or a veteran as defined in Section 71-10-1.
- (3)
- (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.
 - (b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.
 - (c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.
- (4)
- (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

- (b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.
- (c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.
- (d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.
- (5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:
 - (a) remains in the position that the employee is in on June 30, 2010; and
 - (b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Amended by Chapter 401, 2015 General Session

67-19-15.1 Implementation of exempt status for Schedule AD and AR employees.

- (1) As used in this section, "appointee" means:
 - (a) a deputy director;
 - (b) a division director;
 - (c) any assistant directors and administrative assistants who report directly to a department head, deputy director, or their equivalent; and
 - (d) any other person whose appointment is required by law to be approved by the governor.
- (2) After the effective date of this chapter, any new appointee is a merit exempt employee.
- (3) Notwithstanding the requirements of this chapter, any appointee who is currently a nonexempt employee does not lose that nonexempt status because of this chapter.
- (4) The Department of Human Resource Management shall develop financial and other incentives to encourage appointees who are nonexempt to voluntarily convert to merit exempt status.

Amended by Chapter 139, 2006 General Session

67-19-15.6 Longevity salary increases.

- (1) Except for those employees in schedule AB, as provided under Section 67-19-15, and employees described in Subsection 67-19-15(1)(p), an employee shall receive an increase in salary of 2.75% if that employee:
 - (a) holds a position under schedule A or B as provided under Section 67-19-15;
 - (b) has reached the maximum of the salary range in the position classification;
 - (c) has been employed with the state for eight years; and
 - (d) is rated eligible in job performance under guidelines established by the executive director.
- (2) Any employee who meets the criteria under Subsection (1) is entitled to the same increase in salary for each additional three years of employment if the employee maintains the eligibility standards established by the department.

Amended by Chapter 109, 2013 General Session

67-19-15.7 Promotion -- Reclassification -- Market adjustment.

- (1)

- (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee within the new range of the position.
- (b) An agency may not set an employee's salary:
 - (i) higher than the maximum in the new salary range; and
 - (ii) lower than the minimum in the new salary range of the position.
- (c) Except for an employee described in Subsection 67-19-15(1)(p), the agency shall grant a salary increase of at least 5% to an employee who is promoted.
- (2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 67-19-12(5)(b)(i):
 - (a) at the beginning of the next fiscal year; and
 - (b) consistent with appropriations made by the Legislature.
- (3) Department-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:
 - (a) may not be regarded as a reclassification of the position or promotion of the employee; and
 - (b) are exempt from the provisions of Subsection (1).

Amended by Chapter 155, 2015 General Session

67-19-16 Appointments to Schedule B positions -- Examinations -- Hiring lists -- Probationary service -- Dismissal.

- (1) Each appointment to a position under Schedule B shall be made from hiring lists of applicants who have been selected by competitive procedures as defined by the executive director.
- (2) The executive director shall publicly announce information regarding career service positions:
 - (a) for periods of time to be determined by the executive director; and
 - (b) in a manner designed to attract the highest number of qualified applicants.
- (3) The executive director shall make rules establishing standards for the development, approval, and implementation of examining processes, including establishing a department approved on the job examination to appoint a qualified person with a disability.
- (4) Applicants for employment to Schedule B positions shall be eligible for appointment based upon rules established by the executive director.
- (5)
 - (a) The agency head shall make appointments to fill vacancies from hiring lists for probationary periods as defined by rule.
 - (b) The executive director shall make rules establishing probationary periods.
- (6) A person serving a probationary period may not use the grievance procedures provided in this chapter and in Chapter 19a, Grievance Procedures, and may be dismissed at any time by the appointing officer without hearing or appeal.
- (7) Career service status shall be granted upon the successful completion of the probationary period.

Amended by Chapter 103, 2010 General Session

Amended by Chapter 249, 2010 General Session

67-19-18 Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

- (1) A career service employee may be dismissed or demoted:
 - (a) to advance the good of the public service; or

- (b) for just causes, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.
- (2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall establish rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.
- (4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).
- (5)
 - (a) A career service employee may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.
 - (b) The department head or designated representative notifies the employee in writing of the reasons for the dismissal or demotion.
 - (c) The employee has no less than five working days to reply and have the reply considered by the department head.
 - (d) The employee has an opportunity to be heard by the department head or designated representative.
 - (e) Following the hearing, the employee may be dismissed or demoted if the department head finds adequate cause or reason.
- (6)
 - (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the executive director.
 - (b) Under those circumstances:
 - (i) The agency head shall designate the category of work to be eliminated, subject to review by the executive director.
 - (ii) Temporary and probationary employees shall be separated before any career service employee.
 - (iii)
 - (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
 - (B) Retention points for each career service employee shall be computed according to rules established by the executive director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.
- (c)
 - (i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.
 - (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.
 - (iii) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d)

- (i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.
- (ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.
- (iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Chapter 19a, Grievance Procedures.

Amended by Chapter 249, 2010 General Session

67-19-19 Political activity of employees -- Rules and regulations -- Highway patrol -- Hatch Act.

Except as otherwise provided by law or by rules promulgated under this section for federally aided programs, the following provisions apply with regard to political activity of career service employees in all grades and positions:

- (1) Career service employees may voluntarily participate in political activity subject to the following provisions:
 - (a) if any career service employee is elected to any partisan or full-time nonpartisan political office, that employee shall be granted a leave of absence without pay for times when monetary compensation is received for service in political office;
 - (b) no officer or employee in career service may engage in any political activity during the hours of employment, nor may any person solicit political contributions from employees of the executive branch during hours of employment for political purposes; and
 - (c) partisan political activity may not be a basis for employment, promotion, demotion, or dismissal, except that the executive director shall adopt rules providing for the discipline or punishment of a state officer or employee who violates any provision of this section.
- (2)
 - (a) Notwithstanding any other provision of this section, no member of the Utah Highway Patrol may use his official authority or influence for the purpose of interfering with an election or affecting the results of an election.
 - (b) No person may induce or attempt to induce any member of the Utah Highway Patrol to participate in any activity prohibited by this Subsection (2).
- (3) Nothing contained in this section may be construed to:
 - (a) preclude voluntary contributions by an employee to the party or candidate of the officer's or employee's choice; or
 - (b) permit partisan political activity by any employee who is prevented or restricted from engaging in the political activity by the provisions of the federal Hatch Act.

Amended by Chapter 139, 2006 General Session

67-19-26 Severability of provisions -- Compliance with requirements for federally aided programs.

- (1) If any provision of this chapter or of any regulation or order issued thereunder or the application of any provision of this chapter to any person or circumstance is held invalid, the remainder of this chapter and the application of provision of this chapter or regulation or orders issued under it to persons or circumstances other than those to which it is held invalid shall still be regarded as having the force and effect of law.

- (2) If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.
- (3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall be adopted which would deprive the state or any of its departments or institutions of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified human resource system under the standards applicable to personnel engaged in the administration of federally aided programs.

Amended by Chapter 181, 2005 General Session

67-19-27 Leave of absence with pay for employees with a disability who are covered under other civil service systems.

- (1) As used in this section:
 - (a) "Eligible officer" means a person who qualifies for a benefit under this section.
 - (b)
 - (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.
 - (ii) "Law enforcement officer" specifically includes the following:
 - (A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;
 - (B) all persons specified in Sections 23-20-1.5 and 79-4-501;
 - (C) investigators for the Motor Vehicle Enforcement Division;
 - (D) special agents or investigators employed by the attorney general;
 - (E) employees of the Department of Natural Resources designated as peace officers by law;
 - (F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and
 - (G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.
 - (c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.
- (2)
 - (a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.
 - (b) The benefit provided under Subsection (2)(a):
 - (i) shall be offset as provided under Subsection (4); and
 - (ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).
- (3)

- (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:
 - (i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and
 - (ii) the injury is the result of:
 - (A) a criminal act upon the officer; or
 - (B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.
- (b) The benefit provided under Subsection (3)(a):
 - (i) shall be offset as provided under Subsection (4); and
 - (ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).
- (4)
 - (a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Amended by Chapter 159, 2012 General Session

67-19-29 Violation a misdemeanor.

Any person who knowingly violates a provision of this chapter is guilty of a class A misdemeanor.

Enacted by Chapter 139, 1979 General Session

67-19-30 Grievance resolution -- Jurisdiction.

- (1) Employees shall comply with the procedural and jurisdictional requirements of this section, Title 63G, Chapter 4, Administrative Procedures Act, and Chapter 19a, Grievance Procedures, in seeking resolution of grievances.
- (2) All grievances based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, commission, or condition shall be governed by Chapter 19a, Grievance Procedures, and Title 63G, Chapter 4, Administrative Procedures Act.
- (3) All grievances involving classification shall be governed by Section 67-19-31 and are designated as informal adjudicative proceedings as defined by Title 63G, Chapter 4, Administrative Procedures Act.
- (4) All grievances by applicants for positions in state government involving an alleged discriminatory or prohibited employment practice shall be governed by Section 67-19-32 and Title 63G, Chapter 4, Administrative Procedures Act.
- (5) A "grievance" under this chapter is a request for agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 249, 2010 General Session

67-19-31 Position classification grievances -- Scope -- Procedure.

- (1)
 - (a) For the purpose of position classification grievances, the process that culminates in assigning a career service position to an appropriate class specification is a matter of position classification and may be grieved.
 - (b) The process that culminates in assigning a salary range to the class specification is not a position classification and may not be grieved as a classification grievance.
- (2)
 - (a) Upon receipt of a position classification grievance, the executive director shall refer the grievance to a classification panel of three or more impartial persons trained in state classification procedures.
 - (b) The classification panel shall determine whether or not the classification assignment for career service positions was appropriate by applying the statutes, rules, and procedures adopted by the department that were in effect at the time of the classification change.
 - (c) The classification panel may:
 - (i) obtain access to previous audits, classification decisions, and reports;
 - (ii) request new or additional audits by human resource analysts; and
 - (iii) consider new or additional information.
 - (d) The classification panel may sustain or modify the original decision and, if applicable, recommend a new classification.
 - (e) The classification panel shall report its recommendation to the executive director, who shall make the classification decision and notify the grievant.
- (3)
 - (a) Either party may appeal the executive director's decision to an impartial hearing officer trained in state classification procedures selected through a public bid process by a panel consisting of the following members:
 - (i) the executive director of the Department of Human Resource Management;
 - (ii) two department executive directors;
 - (iii) a private sector human resources executive appointed by the governor; and
 - (iv) a representative of the Utah Public Employees Association.
 - (b) The successful bid shall serve under contract for no more than three years. At the end of that time, the Department of Human Resource Management shall reissue the bid.
 - (c) The hearing officer shall review the classification and make the final decision. The final decision is subject to judicial review pursuant to the provisions of Section 63G-4-402.

Amended by Chapter 382, 2008 General Session

67-19-32 Discriminatory/prohibited employment practices grievances -- Procedures.

- (1) An applicant for a position in state government, a probationary employee, career service employee, or an exempt employee who alleges a discriminatory or prohibited employment practice as defined in Section 34A-5-106 may submit a written grievance to the department head where the alleged unlawful act occurred.
- (2) Within 10 working days after a written grievance is submitted under Subsection (1), the department head shall issue a written response to the grievance stating his decision and the reasons for the decision.

- (3) If the department head does not issue a decision within 10 days, or if the grievant is dissatisfied with the decision, the grievant may submit a complaint to the Division of Antidiscrimination and Labor, pursuant to Section 34A-5-107.

Amended by Chapter 375, 1997 General Session

67-19-33 Controlled substances and alcohol use prohibited.

An employee may not:

- (1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;
- (2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:
 - (a) state agencies from receiving federal grants or performing under federal contracts of \$25,000 or more; or
 - (b) the employee to perform his services or work for state government effectively as regulated by the rules of the executive director in accordance with Section 67-19-34; or
- (3) refuse to submit to a drug or alcohol test under Section 67-19-36.

Amended by Chapter 139, 2006 General Session

67-19-34 Rulemaking power to executive director.

In accordance with this chapter and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules regulating:

- (1) disciplinary actions for employees subject to discipline under Section 67-19-37;
- (2) the testing of employees for the use of controlled substances or alcohol as provided in Section 67-19-36;
- (3) the confidentiality of drug testing and test results performed under Section 67-19-36 in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and
- (4) minimum blood levels of alcohol or drug content for work effectiveness of an employee.

Amended by Chapter 382, 2008 General Session

67-19-35 Reporting of convictions under federal and state drug laws.

- (1) An employee who is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance shall report the conviction to the director of his agency within five calendar days after the date of conviction.
- (2) Upon notification either under Subsection (1) or otherwise, the director of the agency shall notify the federal agency for which a contract is being performed within 10 days after receiving notice.

Enacted by Chapter 280, 1990 General Session

67-19-36 Drug testing of state employees.

- (1) Except as provided in Subsection (2), when there is reasonable suspicion that an employee is using a controlled substance or alcohol unlawfully during work hours, an employee may be required to submit to medically accepted testing procedures for a determination of whether the employee is using a controlled substance or alcohol in violation of this part.

- (2) In highly sensitive positions, as identified in department class specifications, random drug testing of employees may be conducted by an agency in accordance with the rules of the executive director.
- (3) All drug or alcohol testing shall be:
 - (a) conducted by a federally certified and licensed physician, a federally certified and licensed medical clinic, or testing facility federally certified and licensed to conduct medically accepted drug testing;
 - (b) conducted in accordance with the rules of the executive director made under Section 67-19-34; and
 - (c) kept confidential in accordance with the rules of the executive director made in accordance with Section 67-19-34.
- (4) A physician, medical clinic, or testing facility may not be held liable in any civil action brought by a party for:
 - (a) performing or failing to perform a test under this section;
 - (b) issuing or failing to issue a test result under this section; or
 - (c) acting or omitting to act in any other way in good faith under this section.

Amended by Chapter 139, 2006 General Session

67-19-37 Discipline of employees.

An employee shall be subject to the rules of discipline of the executive director made in accordance with Section 67-19-34, if the employee:

- (1) refuses to submit to testing procedures provided in Section 67-19-36;
- (2) refuses to complete a drug rehabilitation program in accordance with Subsection 67-19-38(3);
- (3) is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance; or
- (4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in violation of state or federal law during work hours or on state property.

Amended by Chapter 139, 2006 General Session

67-19-38 Violations and penalties.

In addition to other criminal penalties provided by law, an employee who:

- (1) fails to notify the employee's director under Section 67-19-35 is subject to disciplinary proceedings as established by the executive director by rule in accordance with Section 67-19-34;
- (2) refuses to submit to testing procedures provided for in Section 67-19-36, may be suspended immediately without pay pending further disciplinary action as set forth in the rules of the executive director in accordance with Section 67-19-34; or
- (3) tests positive for the presence of unlawfully used controlled substances or alcohol may be required, as part of the employee's disciplinary treatment, to complete a drug rehabilitation program at the employee's expense within 60 days after receiving the positive test results or be subject to further disciplinary procedures established by rule of the executive director in accordance with Section 67-19-34.

Amended by Chapter 139, 2006 General Session

67-19-39 Exemptions.

Peace officers, as defined under Title 53, Chapter 13, Peace Officer Classifications, acting in their official capacity as peace officers in undercover roles and assignments, are exempt from the provisions of this act.

Amended by Chapter 185, 2002 General Session

67-19-42 Employee cost disclosure.

The Division of Finance shall, at least annually, plainly disclose to all state employees the costs of compensation and benefits that are paid by the state in dollar figures.

Enacted by Chapter 130, 2004 General Session

67-19-43 State employee matching supplemental defined contribution benefit.

(1) As used in this section:

(a) "Qualifying account" means:

- (i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or
- (ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or
- (iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) "Qualifying employee" means an employee who is:

(i) in a position that is:

- (A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and
- (B) accruing paid leave benefits that can be used in the current and future calendar years; and

(ii) not an employee who is reemployed as defined in Section 49-11-102.

(2) Subject to the requirements of Subsection (3) and beginning on or after January 4, 2014, an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3)

(a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

- (i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined in Subsection (3)(c);
- (ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined in Subsection (3)(c); or
- (iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.

(c)

- (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).
- (ii) The department shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Management and Budget and the Division of Finance.
- (iii) The biweekly matching contribution amount required under Subsection (2) may not exceed \$26 for each qualifying employee.
- (4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.
- (5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules establishing procedures to implement the provisions of this section.

Amended by Chapter 248, 2015 General Session

67-19-44 Abusive conduct.

- (1) As used in this section:
 - (a)
 - (i) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine:
 - (A) is intended to cause intimidation, humiliation, or unwarranted distress;
 - (B) results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
 - (C) exploits an employee's known physical or psychological disability.
 - (ii) A single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard under Subsection (1)(a)(i)(A), (B), or (C).
 - (b) "Employee" means an employee of a state executive branch agency.
 - (c) "Physical harm" means the impairment of a person's physical health or bodily integrity, as established by competent evidence.
 - (d) "Psychological harm" means the impairment of a person's mental health, as established by competent evidence.
- (2) By July 1, 2015, the department shall make a rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the definitions in Subsection (1).
- (3)
 - (a) On and after July 1, 2015, the department shall provide training to educate employees and supervisors about how to prevent abusive workplace conduct.
 - (b) The training shall include information on:
 - (i) what constitutes abusive conduct and the ramifications of abusive conduct;
 - (ii) resources available to employees who are subject to abusive conduct; and
 - (iii) the grievance process.
- (4)
 - (a) On and after July 1, 2015, each state agency shall provide professional development training approved by the department to promote:

- (i) ethical conduct; and
 - (ii) organizational leadership practices based in principles of integrity.
- (b) A state agency may request assistance from the department in developing training under this Subsection (4).
- (5) Employees shall participate in the training described in Subsections (3) and (4) in alternating years.
- (6) The department may use money appropriated to the department or access support from outside resources to:
 - (a) develop policies against workplace abusive conduct; and
 - (b) enhance professional development training on topics such as:
 - (i) building trust;
 - (ii) effective motivation;
 - (iii) communication;
 - (iv) conflict resolution;
 - (v) accountability;
 - (vi) coaching;
 - (vii) leadership; or
 - (viii) ethics.
- (7) This section does not:
 - (a) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;
 - (b) create a private right of action;
 - (c) expand or diminish rights or remedies available to a person before July 1, 2015; or
 - (d) expand or diminish grounds for discipline that existed before July 1, 2015.
- (8) The department shall report to the Economic Development and Workforce Services Interim Committee by no later than the November 2015 interim meeting regarding:
 - (a) the implementation of this section;
 - (b) recommendations, if any, to appropriately address and reduce workplace abusive conduct or to change definitions or training required by this section; and
 - (c) if the department finds a change in a definition or training is needed, the department's efforts to work with stakeholders to make recommendations for change.

Enacted by Chapter 211, 2015 General Session

Chapter 19a Grievance Procedures

Part 1 General Provisions

67-19a-101 Definitions.

As used in this chapter:

- (1) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.
- (2) "Career service employee" means a person employed in career service as defined in Section 67-19-3.

- (3) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.
- (4) "Grievance" means:
 - (a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;
 - (b) any dispute between a career service employee and the employer; and
 - (c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee.
- (5) "Office" means the Career Service Review Office created under Section 67-19a-201.
- (6) "Public entity" is as defined in Section 67-21-2.
- (7) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.
- (8) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:
 - (a) dismiss the employee;
 - (b) reduce the employee's compensation;
 - (c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;
 - (d) fail to promote the employee if the employee would have otherwise been promoted;
 - (e) cause the employee to resign by subjecting the employee to conditions that a reasonable person would consider intolerable; or
 - (f) threaten to take an action described in Subsections (8)(a) through (e).
- (9) "Supervisor" means the person:
 - (a) to whom an employee reports; or
 - (b) who assigns and oversees an employee's work.

Amended by Chapter 427, 2013 General Session

Part 2

Career Service Review Office

67-19a-201 Career Service Review Office created -- Appointment of an administrator -- Reporting -- Qualifications.

- (1) There is created a Career Service Review Office.
- (2)
 - (a) The governor shall appoint, with the consent of the Senate, an administrator of the office.
 - (b) The administrator shall have demonstrated an ability to administer personnel policies in performing the duties specified in this chapter.

Amended by Chapter 249, 2010 General Session

Amended by Chapter 249, 2010 General Session, (Coordination Clause)

Amended by Chapter 286, 2010 General Session

Amended by Chapter 324, 2010 General Session

67-19a-202 Powers -- Scope of authority.

- (1)

- (a) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:
 - (i) a dismissal;
 - (ii) a demotion;
 - (iii) a suspension;
 - (iv) a reduction in force;
 - (v) a dispute concerning abandonment of position;
 - (vi) a wage grievance if an employee is not placed within the salary range of the employee's current position;
 - (vii) a violation of a rule adopted under Chapter 19, Utah State Personnel Management Act; or
 - (viii) except as provided by Subsection (1)(c)(iii), equitable administration of the following benefits:
 - (A) long-term disability insurance;
 - (B) medical insurance;
 - (C) dental insurance;
 - (D) post-retirement health insurance;
 - (E) post-retirement life insurance;
 - (F) life insurance;
 - (G) defined contribution retirement;
 - (H) defined benefit retirement; and
 - (I) a leave benefit.
- (b) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.
- (c) The office may not review or take action on:
 - (i) a personnel matter not listed in Subsection (1)(a) or (b);
 - (ii) a grievance listed in Subsection (1)(a) or (b) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or
 - (iii) a grievance related to a claim for which an administrative review process is provided by statute and administered by:
 - (A) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;
 - (B) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
 - (C) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.
- (2) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 258, 2015 General Session

67-19a-203 Rulemaking authority.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:
 - (a) definitions of terms, phrases, and words used in the grievance process established by this chapter;
 - (b) what matters constitute excusable neglect for purposes of the waiver of time limits established by this chapter;

- (c) the application for and service of subpoenas, the service and filing of pleadings, and the issuance of rulings, orders, determinations, summary judgments, transcripts, and other legal documents necessary in grievance proceedings;
 - (d) the use, calling, attendance, participation, and fees of witnesses in grievance proceedings;
 - (e) continuances of grievance proceedings;
 - (f) procedures in hearings, unless governed by Title 63G, Chapter 4, Administrative Procedures Act;
 - (g) the presence of media representatives at grievance proceedings;
 - (h) procedures for sealing files or making data pertaining to a grievance unavailable to the public; and
 - (i) motions that will assist the parties in meeting the 150-day time limit.
- (2) The rule made under Subsection (1)(i) shall:
- (a) prohibit a party from filing a dispositive motion under Utah Rules of Civil Procedure, Rule 12(b)(6) or Rule 56 before an evidentiary hearing; and
 - (b) authorize a party to file a motion before an evidentiary hearing to:
 - (i) dismiss for lack of authority to review the grievance under Utah Rules of Civil Procedure, Rule 12(b)(1) or Rule 12(b)(2); or
 - (ii) limit the introduction of evidence.

Amended by Chapter 249, 2010 General Session

67-19a-204 Administrator -- Powers.

- (1) In conjunction with any inquiry, investigation, hearing, or other proceeding, the administrator may:
- (a) administer an oath;
 - (b) certify an official act;
 - (c) subpoena a witness, document, and other evidence; and
 - (d) grant a continuance as provided by rule.
- (2)
- (a) The administrator may:
 - (i) assign qualified, impartial hearing officers on a per case basis to adjudicate matters under the authority of the office;
 - (ii) subpoena witnesses, documents, and other evidence in conjunction with any inquiry, investigation, hearing, or other proceeding;
 - (iii) upon motion made by a party or person to whom the subpoena is directed and upon notice to the party who issued the subpoena, quash or modify the subpoena if it is unreasonable, requires an excessive number of witnesses, or requests evidence not relevant to any matter in issue; and
 - (iv) act as a hearing officer if the aggrieved employee consents.
 - (b) In selecting and assigning hearing officers under authority of this section, the administrator shall appoint hearing officers that have demonstrated by education, training, and experience the ability to adjudicate and resolve personnel administration disputes by applying employee relations principles within a large, public work force.

Amended by Chapter 339, 2015 General Session

Part 3

Grievance Procedures

67-19a-301 Charges submissible under grievance procedure.

- (1) This grievance procedure may only be used by career service employees who are not:
 - (a) public applicants for a position with the state's work force;
 - (b) public employees of the state's political subdivisions;
 - (c) public employees covered by other grievance procedures; or
 - (d) employees of state institutions of higher education.
- (2)
 - (a) Whenever a question or dispute exists as to whether an employee is qualified to use this grievance procedure, the administrator shall resolve the question or dispute.
 - (b) The administrator's decision under Subsection (2)(a) is reviewable only by the Court of Appeals.
- (3) Any career service employee may submit a grievance based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, omission, or condition for solution through the grievance procedures set forth in this chapter.
- (4) A reporting employee who desires to bring an administrative claim of retaliatory action shall use the grievance procedure described in Section 67-19a-402.5.

Amended by Chapter 427, 2013 General Session

67-19a-302 Levels of procedure.

- (1) A career service employee may grieve the issues specified under Subsection 67-19a-202(1)(a) to all levels of the grievance procedure described in Section 67-19a-402.
- (2)
 - (a) A career service employee may grieve all other matters only to the level of the department head.
 - (b) The decision of the department head on a matter under Subsection (2)(a) is final and may not be advanced to the office.
- (3) In accordance with Section 67-19a-402.5, and subject to Section 67-21-4, a reporting employee may file directly with the office a grievance alleging retaliatory action.

Amended by Chapter 427, 2013 General Session

67-19a-303 Employees' rights in grievance procedure.

- (1) For the purpose of submitting and advancing a grievance, a career service employee, or a reporting employee alleging retaliatory action, may:
 - (a) obtain assistance by a representative of the employee's choice to act as an advocate at any level of the grievance procedure;
 - (b) request a reasonable amount of time during work hours to confer with the representative and prepare the grievance; and
 - (c) call other employees as witnesses at a grievance hearing.
- (2) The state shall allow employees to attend and testify at the grievance hearing as witnesses if the employee has given reasonable advance notice to the employee's immediate supervisor.
- (3) No person may take any reprisals against a career service employee or a reporting employee for use of a grievance procedure described in this chapter.

- (4)
- (a) The employing agency of an employee who files a grievance may not place grievance forms, grievance materials, correspondence about the grievance, agency and department replies to the grievance, or other documents relating to the grievance in the employee's personnel file.
 - (b) The employing agency of an employee who files a grievance may place records of disciplinary action in the employee's personnel file.
 - (c) If any disciplinary action against an employee is rescinded through the grievance procedures described in this chapter, the agency and the Department of Human Resource Management shall remove the record of the disciplinary action from the employee's agency personnel file and central personnel file.
 - (d) An agency may maintain a separate grievance file relating to an employee's grievance, but shall discard the file after three years.

Amended by Chapter 427, 2013 General Session

Part 4

Procedural Steps to Be Followed by Aggrieved Employee

67-19a-401 Time limits for submission and advancement of grievance by aggrieved employee -- Voluntary termination of employment -- Group grievances.

- (1) Subject to the provisions of Part 3, Grievance Procedures, and the restrictions contained in this part, a career service employee may have a grievance addressed by following the procedures specified in this part.
- (2) The employee and the person to whom the grievance is directed may agree in writing to waive or extend grievance steps specified under Subsection 67-19a-402(1), (2), or (3) or the time limits specified for those grievance steps, as outlined in Section 67-19a-402.
- (3) Any writing made under Subsection (2) shall be submitted to the administrator.
- (4) Except as provided under Subsection (6), if the employee fails to advance the grievance to the next procedural step within the time limits established in this part:
 - (a) the employee waives the right to advance the grievance or to obtain judicial review of the grievance; and
 - (b) the grievance is considered to be settled based on the decision made at the last procedural step.
- (5)
 - (a) An employee may submit a grievance for review under this chapter only if the employee submits the grievance:
 - (i) within 20 working days after the event giving rise to the grievance; or
 - (ii) within 20 working days after the employee has knowledge of the event giving rise to the grievance.
 - (b) Notwithstanding Subsection (5)(a), an employee may not submit a grievance more than one year after the event giving rise to the grievance.
- (6) The provisions of Subsections (4) and (5)(a) do not apply if the employee meets the requirements for excusable neglect established by rule.
- (7) A person who has voluntarily terminated the person's employment with the state may not submit a grievance after the person has terminated the employment.
- (8)

- (a) If several employees allege the same grievance, the employees may submit a group grievance by following the procedures and requirements of this chapter.
- (b) In submitting a group grievance, each aggrieved employee shall sign the grievance.
- (c) The administrator may not treat a group grievance as a class action, but may select one aggrieved employee's grievance and address that grievance as a test case.

Amended by Chapter 249, 2010 General Session

67-19a-402 Procedural steps to be followed by aggrieved employee.

- (1)
 - (a) A career service employee who has a grievance shall submit the grievance in writing to:
 - (i) the employee's supervisor; and
 - (ii) the administrator.
 - (b) Within five working days after receiving a written grievance, the employee's supervisor may issue a written decision on the grievance.
- (2)
 - (a) If the employee's supervisor fails to respond to the grievance within five working days or if the aggrieved employee is dissatisfied with the supervisor's written decision, the employee may advance the written grievance to the employee's agency or division director within 10 working days after the expiration of the period for response or receipt of the written decision, whichever is first.
 - (b) Within five working days after receiving the written grievance, the employee's agency or division director may issue a written response to the grievance stating the decision and the reasons for the decision.
- (3)
 - (a) If the employee's agency or division director fails to respond to the grievance within five working days after its submission, or if the aggrieved employee is dissatisfied with the agency or division director's written decision, the employee may advance the written grievance to the employee's department head within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.
 - (b) Within 10 working days after the employee's written grievance is submitted, the department head may issue a written response to the grievance stating the decision and the reasons for the decision.
 - (c) The decision of the department head is final in all matters except those matters that the office may review under the authority of Part 3, Grievance Procedures.
- (4) If the written grievance submitted to the employee's department head meets the subject matter requirements of Section 67-19a-202 and if the employee's department head fails to respond to the grievance within 10 working days after submission, or if the aggrieved employee is dissatisfied with the department head's written decision, the employee may advance the written grievance to the administrator within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.

Amended by Chapter 249, 2010 General Session

67-19a-402.5 Procedural steps to be followed by reporting employee alleging retaliatory action.

- (1) A reporting employee who desires to assert an administrative grievance of retaliatory action:

- (a) shall submit the grievance in writing within 20 days after the day on which the retaliatory action occurs;
 - (b) is not required to comply with Section 63G-7-402 to file the grievance; and
 - (c) is subject to the provisions of Section 67-21-4.
- (2)
- (a) When a reporting employee files a grievance with the administrator under Subsection (1), the administrator shall initially determine:
 - (i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah Protection of Public Employees Act, to bring the grievance and use the grievance procedure;
 - (ii) whether the office has authority to review the grievance;
 - (iii) whether, if the alleged grievance were found to be true, the reporting employee would be entitled to relief under Subsection 67-21-3.5(2); and
 - (iv) whether the reporting employee has been directly harmed.
 - (b) To make the determinations described in Subsection (2)(a), the administrator may:
 - (i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or
 - (ii) conduct an administrative review of the grievance.
- (3)
- (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the day on which the hearing is adjourned.
 - (b) If the administrator chooses to conduct an administrative review of the grievance, the administrator shall issue the written decision within 15 days after the day on which the administrator receives the grievance.
- (4)
- (a) If the administrator determines the office has authority to review the grievance, the administrator shall provide for an evidentiary hearing in accordance with Section 67-19a-404.
 - (b) The administrator may dismiss the grievance, without holding a hearing or taking evidence, if the administrator:
 - (i) finds that, even if the alleged grievance were found to be true, the reporting employee would not be entitled to relief under Subsection 67-21-3.5(2); and
 - (ii) provides the administrator's findings, in writing, to the reporting employee.
 - (c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act, in taking action under this section.
- (5) A decision reached by the office in reviewing a retaliatory action grievance from a reporting employee may be appealed directly to the Utah Court of Appeals.
- (6)
- (a) Except as provided in Subsection (6)(b), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee.
 - (b) A court may not order the office to pay costs or attorney fees under this section.

Amended by Chapter 258, 2015 General Session

67-19a-403 Advancement of grievance to administrator -- Initial hearing.

- (1) At any time after a career service employee submits a written grievance to the administrator under Subsection 67-19a-402(4), the administrator may attempt to settle the grievance informally by conference, conciliation, and persuasion with the employee and the agency.
- (2)

- (a) When an employee advances a grievance to the administrator under Subsection 67-19a-402(4), the administrator shall initially determine:
 - (i) whether the employee is a career service employee and is entitled to use the grievance system;
 - (ii) whether the office has authority to review the grievance; and
 - (iii) whether the employee has been directly harmed.
- (b) In order to make the determinations required by Subsection (2)(a), the administrator may:
 - (i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or
 - (ii) conduct an administrative review of the file.
- (3)
 - (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the hearing is adjourned.
 - (b) If the administrator chooses to conduct an administrative review of the file, the administrator shall issue the written decision within 15 days after the administrator receives the grievance.

Amended by Chapter 249, 2010 General Session

67-19a-404 Evidentiary hearing.

- (1) If the administrator determines that the office has authority to review the grievance, the administrator shall:
 - (a) appoint a hearing officer to adjudicate the grievance; and
 - (b) set a date for the evidentiary hearing that is either:
 - (i) not later than 30 days after the date the administrator determines that the office has authority to review the grievance; or
 - (ii) at a date:
 - (A) agreed upon by the parties and the administrator; and
 - (B) not greater than 150 days after the date the administrator determines that the office has authority to review the grievance.
- (2) After the date for the evidentiary hearing has been set, the administrator or assigned hearing officer may grant each party one extension of reasonable length for extraordinary circumstances as determined by the administrator or assigned hearing officer.
- (3) Notwithstanding Section 63G-4-205, and in order to accommodate the 150-day time limit, the administrator may only allow a motion for discovery for production of documents, records, and evidence under Utah Rules of Civil Procedure, Rule 34.

Amended by Chapter 249, 2010 General Session

67-19a-405 Prehearing conference.

- (1) The administrator may require the presence of each party, the representatives of each party, and other designated persons at a prehearing conference.
- (2) At the conference, the administrator may require the parties to:
 - (a) identify which allegations are admitted and which allegations are denied;
 - (b) submit a joint statement detailing:
 - (i) stipulated facts that are not in dispute;
 - (ii) the issues to be decided; and
 - (iii) applicable laws and rules;

- (c) submit a list of witnesses, exhibits, and papers or other evidence that each party intends to offer as evidence; and
 - (d) confer in an effort to resolve or settle the grievance.
- (3) At the conclusion of the prehearing conference, the administrator may require the parties to prepare a written statement identifying:
- (a) the items presented or agreed to under Subsection (2); and
 - (b) the issues remaining to be resolved by the hearing process.
- (4) The prehearing conference is informal and is not open to the public or press.

Enacted by Chapter 191, 1989 General Session

67-19a-406 Procedural steps to be followed by aggrieved employee -- Hearing before hearing officer -- Evidentiary and procedural rules.

- (1)
- (a) The administrator shall employ a certified court reporter to record the hearing and prepare an official transcript of the hearing.
 - (b) The official transcript of the proceedings and all exhibits, briefs, motions, and pleadings received by the hearing officer are the official record of the proceeding.
- (2)
- (a) The agency has the burden of proof in all grievances.
 - (b) The agency must prove the agency's case by substantial evidence.
- (3)
- (a) The hearing officer shall issue a written decision within 20 working days after the hearing is adjourned.
 - (b) If the hearing officer does not issue a decision within 20 working days, the agency that is a party to the grievance is not liable for any claimed back wages or benefits after the date the decision is due.
- (4) The hearing officer may:
- (a) not award attorney fees or costs to either party;
 - (b) close a hearing by complying with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act;
 - (c) seal the file and the evidence produced at the hearing if the evidence raises questions about an employee's character, professional competence, or physical or mental health;
 - (d) grant continuances according to rule; and
 - (e) decide a motion, an issue regarding discovery, or another issue in accordance with this chapter.
- (5)
- (a) A hearing officer shall affirm, rescind, or modify agency action.
 - (b)
 - (i) If a hearing officer does not affirm agency action, the hearing officer shall order back pay and back benefits that the grievant would have received without the agency action.
 - (ii) An order under Subsection (5)(b)(i) shall include:
 - (A) reimbursement to the grievant for premiums that the grievant paid for benefits allowed under the Consolidated Omnibus Reconciliation Act of 1985; and
 - (B) an offset for any state paid benefits the grievant receives because of the agency action, including unemployment compensation benefits.

- (c) In an order under Subsection (5)(b)(i), a hearing officer may not reduce the amount of back pay and benefits awarded a grievant because of income that the grievant earns during the grievance process.

Amended by Chapter 109, 2013 General Session

Chapter 19c

Employee Recognition

67-19c-101 Department award program.

- (1) As used in this section:
 - (a) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the State Board of Regents, the State Tax Commission, the Department of Technology Services, and the Department of Transportation.
 - (b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.
- (2) There is created a department awards program to award an outstanding employee in each department of state government.
- (3)
 - (a) By April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for his department from the employees in his department.
 - (b) By July 1 of each year, the department head shall:
 - (i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and
 - (ii) announce the recipient of the award to his employees.
 - (c) Department heads shall make the award to a person who demonstrates:
 - (i) extraordinary competence in performing his function;
 - (ii) creativity in identifying problems and devising workable, cost-effective solutions to them;
 - (iii) excellent relationships with the public and other employees;
 - (iv) a commitment to serving the public as the client; and
 - (v) a commitment to economy and efficiency in government.
- (4)
 - (a) The Department of Human Resource Management shall divide any appropriation for outstanding department employee awards that it receives from the Legislature equally among the departments.
 - (b) If the department receives money from the Department of Human Resource Management or if the department budget allows, the department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

- (5)
- (a) The department head may name the award after an exemplary present or former employee of the department.
 - (b) A department head may not name the award for himself or for any relative as defined in Section 52-3-1.
 - (c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.

Amended by Chapter 212, 2012 General Session

Chapter 19d

State Post-Retirement Benefits Trust Fund Act

Part 1

General Provisions

67-19d-101 Title.

This chapter is known as the "State Post-Retirement Benefits Trust Fund Act."

Enacted by Chapter 99, 2007 General Session

67-19d-102 Definitions.

As used in this chapter:

- (1) "Board of trustees" or "board" means the board of trustees created in Section 67-19d-202.
- (2) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.
- (3) "Trust fund" means the State Post-Retirement Benefits Trust Fund created by Section 67-19d-201.

Enacted by Chapter 99, 2007 General Session

Part 2

Creation and Governance of the Post-Retirement Benefits Trust Fund

67-19d-201 Trust fund -- Creation -- Oversight -- Dissolution.

- (1) There is created a post-retirement benefits trust fund entitled the "State Post-Retirement Benefits Trust Fund."
- (2) The trust fund consists of:
 - (a) revenue provided from an ongoing labor additive as defined in Subsection 67-19d-202(2)(g);
 - (b) appropriations made to the fund by the Legislature, if any;
 - (c) income as defined in Section 67-19d-102; and
 - (d) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of trust fund money.
- (4)

- (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Trust Fund Investments.
- (b)
 - (i) The trust fund shall earn interest.
 - (ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.
- (5) The board of trustees created in Section 67-19d-202 may expend money from the trust fund for:
 - (a) the employer portion of the costs of the programs established in Sections 67-19-14 through 67-19-14.4; and
 - (b) reasonable administrative costs that the board of trustees incurs in performing their duties as trustees of the trust fund.
- (6) The board of trustees shall ensure that:
 - (a) money deposited into the trust fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits;
 - (b) assets of the trust fund are dedicated to providing benefits to retirees and their beneficiaries according to the terms of the post-retirement benefit plans established by statute and rule; and
 - (c) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the trust fund.
- (7) When all of the liabilities for which the trust fund was created are paid, the Division of Finance shall transfer any assets remaining in the state trust fund into the appropriate fund.

Amended by Chapter 342, 2011 General Session

67-19d-201.5 Elected Official Post-Retirement Benefits Trust Fund -- Creation -- Oversight -- Dissolution.

- (1) There is created the "Elected Official Post-Retirement Benefits Trust Fund."
- (2) The Elected Official Post-Retirement Benefits Trust Fund consists of:
 - (a) appropriations made to the fund by the Legislature for the purpose of funding the post-retirement benefits in Section 49-20-404;
 - (b) revenues received by the state treasurer from the investment of the Elected Official Post-Retirement Benefits Trust Fund; and
 - (c) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of money in the Elected Official Post-Retirement Benefits Trust Fund.
- (4)
 - (a) Except as provided in Subsection (4)(c), the state treasurer shall invest the Elected Official Post-Retirement Benefits Trust Fund money by following the same procedures and requirements for the investment of the State Post-Retirement Benefits Trust Fund in Part 3, Trust Fund Investments.
 - (b)
 - (i) The Elected Official Post-Retirement Benefits Trust Fund shall earn interest.
 - (ii) The state treasurer shall deposit all interest or other income earned from investment of the Elected Official Post-Retirement Benefits Trust Fund back into the Elected Official Post-Retirement Benefits Trust Fund.
 - (c) The Elected Official Post-Retirement Benefits Trust Fund is exempt from Title 51, Chapter 7, State Money Management Act.

- (5) The board of trustees created in Section 67-19d-202 may expend money from the Elected Official Post-Retirement Benefits Trust Fund for:
 - (a) the employer portion of the cost of the program established in Section 49-20-404; and
 - (b) reasonable administrative costs that the board of trustees incurs in performing its duties as trustees of the Elected Official Post-Retirement Benefits Trust Fund.
- (6) The board of trustees shall ensure that:
 - (a) money deposited into the Elected Official Post-Retirement Benefits Trust Fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits under Section 49-20-404; and
 - (b) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the Elected Official Post-Retirement Benefits Trust Fund.
- (7) When all of the liabilities for which the Elected Official Post-Retirement Benefits Trust Fund was created are paid, the Division of Finance shall transfer any assets remaining in the Elected Official Post-Retirement Benefits Trust Fund into the appropriate fund.

Enacted by Chapter 376, 2012 General Session

67-19d-202 Board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund.

- (1)
 - (a) There is created a board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund composed of three members:
 - (i) the state treasurer or designee;
 - (ii) the director of the Division of Finance or designee; and
 - (iii) the executive director of the Governor's Office of Management and Budget or designee.
 - (b) The state treasurer is chair of the board.
 - (c) Three members of the board are a quorum.
 - (d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
 - (e)
 - (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.
 - (ii) The Division of Finance shall provide accounting services for the trust fund.
- (2) The board shall:
 - (a) on behalf of the state, act as trustee of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 and exercise the state's fiduciary responsibilities;
 - (b) meet at least twice per year;
 - (c) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;
 - (d) review and approve the budget for each trust fund described under Subsection (2)(a);
 - (e) review financial records for each trust fund described under Subsection (2)(a), including trust fund receipts, expenditures, and investments;

- (f) commission and obtain actuarial studies of the liabilities for each trust fund described under Subsection (2)(a);
 - (g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor additive rates to charge all federal, state, and other programs to cover:
 - (i) the annual required contribution as determined by actuary; and
 - (ii) the administrative expenses of the trust fund; and
 - (h) do any other things necessary to perform the state's fiduciary obligations under each trust fund described under Subsection (2)(a).
- (3) The attorney general shall:
- (a) act as legal counsel and provide legal representation to the board of trustees; and
 - (b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Amended by Chapter 310, 2013 General Session

Part 3

Trust Fund Investments

67-19d-301 Investment of State Post-Retirement Benefits Trust Fund.

- (1) The state treasurer shall invest the assets of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 with the primary goal of providing for the stability, income, and growth of the principal.
- (2) Nothing in this section requires a specific outcome in investing.
- (3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing them.
- (4)
 - (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.
 - (b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Amended by Chapter 376, 2012 General Session

67-19d-302 State treasurer to follow "prudent investor" rule -- Standard of care.

- (1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:
 - (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and
 - (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (2) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
 - (a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

- (b) evaluate the state treasurer's investment and management decisions respecting individual assets:
 - (i) not in isolation, but in the context of a trust fund portfolio as a whole; and
 - (ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

Enacted by Chapter 99, 2007 General Session

Chapter 19e

Administrative Law Judges

67-19e-101 Title.

This chapter is known as "Administrative Law Judges."

Enacted by Chapter 165, 2013 General Session

67-19e-102 Definitions -- Application of chapter -- Exceptions.

- (1) In addition to the definitions found in Section 67-19-3, the following definitions apply to this chapter.
 - (a) "Administrative law judge" means an individual who is employed or contracted by a state agency that:
 - (i) presides over or conducts formal administrative hearings on behalf of an agency;
 - (ii) has the power to administer oaths, rule on the admissibility of evidence, take testimony, evaluate evidence, and make determinations of fact; and
 - (iii) issues written orders, rulings, or final decisions on behalf of an agency.
 - (b) "Administrative law judge" does not mean:
 - (i) an individual who reviews an order or ruling of an administrative law judge; or
 - (ii) the executive director of a state agency.
 - (c) "Committee" means the Administrative Law Judge Conduct Committee created in Section 67-19e-108.
- (2) This chapter applies to all agencies of the state except the:
 - (a) Board of Pardons and Parole;
 - (b) Department of Corrections; and
 - (c) State Tax Commission.

Enacted by Chapter 165, 2013 General Session

67-19e-103 Administrative law judges -- Standard of conduct.

- (1) All agency administrative law judges who conduct formal administrative hearings are subject to this chapter.
- (2) All administrative law judges are subject to the code of conduct promulgated by the department in accordance with Section 67-19e-104.
- (3) An administrative law judge who tampers with or destroys evidence submitted to the administrative law judge is subject to the provisions of Section 76-8-510.5. This section does

not apply to documents destroyed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Enacted by Chapter 165, 2013 General Session

67-19e-104 Rulemaking authority.

The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (1) establishing minimum performance standards for all administrative law judges;
- (2) providing procedures for filing, addressing, and reviewing complaints against administrative law judges;
- (3) providing standards for complaints against administrative law judges; and
- (4) promulgating a code of conduct for all administrative law judges in all state agencies.

Enacted by Chapter 165, 2013 General Session

67-19e-105 Performance evaluation of administrative law judges.

- (1) Beginning January 1, 2014, the department shall prepare a performance evaluation for each administrative law judge contracted or employed by a state agency.
- (2) The performance evaluation for an administrative law judge shall include:
 - (a) the results of the administrative law judge's performance evaluations conducted by the employing agency since the administrative law judge's last performance evaluation conducted by the department in accordance with the performance evaluation procedure for the agency;
 - (b) information from the employing agency concerning the administrative law judge's compliance with minimum performance standards;
 - (c) the administrative law judge's disciplinary record, if any;
 - (d) the results of any performance surveys conducted since the administrative law judge's last performance review conducted by the department; and
 - (e) any other factor that the department considers relevant to evaluating the administrative law judge's performance.
- (3) If an administrative law judge fails to meet the minimum performance standards the department shall provide a copy of the performance evaluation and survey to the employing agency.
- (4) The department shall conduct performance reviews every four years for administrative law judges contracted or employed by an agency.

Enacted by Chapter 165, 2013 General Session

67-19e-106 Performance surveys.

- (1) For administrative law judges contracted or employed before July 1, 2013, performance surveys shall be conducted initially at either the two-, three-, or four-year mark beginning January 1, 2014. By July 1, 2018, all administrative law judges shall be on a four-year staggered cycle for performance evaluations.
- (2) The performance survey shall include as respondents a sample of each of the following groups as applicable:
 - (a) attorneys who have appeared before the administrative law judge as counsel; and
 - (b) staff who have worked with the administrative law judge.
- (3) The department may include an additional classification of respondents if the department:
 - (a) considers a survey of that classification of respondents helpful to the department; and

- (b) establishes the additional classification of respondents by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) A survey response is anonymous, including any comment included with a survey response.
- (5) If the department provides any information to an administrative law judge or the committee, the information shall be provided in such a way as to protect the confidentiality of a survey respondent.
- (6) If the department establishes an additional classification, in accordance with Subsection (3), a survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appeared before the administrative law judge is closed, exclusive of any appeal. Staff and attorneys may be surveyed at any time during the survey period.
- (7) Survey categories may include questions concerning an administrative law judge's:
 - (a) legal ability, including the following:
 - (i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;
 - (ii) attentiveness to factual and legal issues before the administrative law judge;
 - (iii) adherence to precedent and ability to clearly explain departures from precedent;
 - (iv) grasp of the practical impact on the parties of the administrative law judge's rulings, including the effect of delay and increased litigation expense;
 - (v) ability to write clear opinions and decisions; and
 - (vi) ability to clearly explain the legal basis for opinions;
 - (b) temperament and integrity, including the following:
 - (i) demonstration of courtesy toward attorneys, staff, and others in the administrative law judge's department;
 - (ii) maintenance of decorum in the courtroom;
 - (iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the administrative law judge system;
 - (iv) preparedness for oral argument;
 - (v) avoidance of impropriety or the appearance of impropriety;
 - (vi) display of fairness and impartiality toward all parties; and
 - (vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and
 - (c) administrative performance, including the following:
 - (i) management of workload;
 - (ii) sharing proportionally the workload within the department; and
 - (iii) issuance of opinions and orders without unnecessary delay.
- (8) If the department determines that a certain survey question or category of questions is not appropriate for a respondent group, the department may omit that question or category of questions from the survey provided to that respondent group.
- (9)
 - (a) The survey shall allow respondents to indicate responses in a manner determined by the department, which shall be:
 - (i) on a numerical scale from one to five; or
 - (ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.
 - (b) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the department may allow respondents to provide written comments.

- (10) The department shall compile and make available to each administrative law judge that administrative law judge's survey results with each of the administrative law judge's performance evaluations.

Enacted by Chapter 165, 2013 General Session

67-19e-107 Complaints.

- (1) A complaint against an administrative law judge shall be filed with the department.
- (2) Upon receipt of a complaint, the department shall conduct an investigation.
- (3) If the department's investigation determines that the complaint is frivolous or without merit, it may dismiss it without further action. A complaint that merely indicates disagreement, without further misconduct, with the administrative law judge's decision shall be treated as without merit.
- (4) The contents of all complaints and subsequent investigations are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Enacted by Chapter 165, 2013 General Session

67-19e-108 Administrative Law Judge Conduct Committee.

- (1) There is created the Administrative Law Judge Conduct Committee to investigate, review, and hear complaints filed against administrative law judges.
- (2) The committee shall be composed of:
 - (a) the executive director of the department, or the executive director's designee, as chair; and
 - (b) four executive directors, or their designees, of agencies that employ or contract with administrative law judges, to be selected by the executive director as needed.
- (3) The department shall provide staff for the committee as needed.

Enacted by Chapter 165, 2013 General Session

67-19e-109 Procedure for review of complaint by conduct committee.

- (1) Upon a determination that a complaint requires further action, the executive director shall select four executive directors or their designees and convene the committee. The executive director of the agency that employs or contracts with the administrative law judge who is the subject of the complaint may not be a member of the committee.
- (2) The department shall provide a copy of the complaint, along with the results of the department's investigation, to the committee and the administrative law judge who is the subject of the complaint. If the committee directs, a copy of the complaint and investigation may also be provided to the attorney general.
- (3) The committee shall allow an administrative law judge who is the subject of a complaint to appear and speak at any committee meeting, except a closed meeting, during which the committee is deliberating the complaint.
- (4) The committee may meet in a closed meeting to discuss a complaint against an administrative law judge by complying with Title 52, Chapter 4, Open and Public Meetings Act.
- (5) After deliberation and discussion of the complaint and all information provided, the committee shall provide a report, with a recommendation, to the agency. The recommendation shall include:
 - (a) a brief description of the complaint and results of the department's investigation;
 - (b) the committee's findings; and

- (c) a recommendation from the committee whether action should be taken against the administrative law judge.
- (6) Actions recommended by the committee may include no action, disciplinary action, termination, or any other action an employer may take against an employee.
- (7) The record of an individual committee member's vote on recommended actions against an administrative law judge is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

Enacted by Chapter 165, 2013 General Session

Chapter 19f

State Employees' Annual Leave Trust Fund Act

Part 1

General Provisions

67-19f-101 Title.

This chapter is known as the "State Employees' Annual Leave Trust Fund Act."

Amended by Chapter 368, 2015 General Session

67-19f-102 Definitions.

As used in this chapter:

- (1) "Annual leave II" is as defined in Section 67-19-14.6.
- (2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.
- (3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.
- (4) "Trust fund" means the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

Amended by Chapter 368, 2015 General Session

Part 2

Oversight and Board of Trustees

67-19f-201 Trust fund -- Creation -- Oversight -- Dissolution.

- (1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."
- (2) The trust fund consists of:
 - (a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section 67-19-14.6;
 - (b) appropriations made to the trust fund by the Legislature, if any;
 - (c) transfers from the termination pool described in Subsection 67-19-14.6(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section 67-19-14.6;
 - (d) income; and

- (e) revenue received from other sources.
- (3)
 - (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.
 - (b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection 67-19-14.6(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.
- (4)
 - (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.
 - (b)
 - (i) The trust fund shall earn interest.
 - (ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.
- (5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:
 - (a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section 67-19-14.6 as annual leave II is used by an employee;
 - (b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; and
 - (c) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.
- (6) The board of trustees shall ensure that:
 - (a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and
 - (b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.
- (7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Amended by Chapter 368, 2015 General Session

67-19f-202 Board of trustees of the State Employees' Annual Leave Trust Fund.

- (1)
 - (a) There is created a board of trustees of the State Employees' Annual Leave Trust Fund composed of the following three members:
 - (i) the state treasurer or the state treasurer's designee;
 - (ii) the director of the Division of Finance or the director's designee; and
 - (iii) the executive director of the Governor's Office of Management and Budget or the executive director's designee.
 - (b) The state treasurer is chair of the board.
 - (c) Three members of the board is a quorum.
 - (d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (e)

- (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.
 - (ii) The Division of Finance shall provide accounting services for the trust fund.
- (2) The board shall:
- (a) on behalf of the state, act as trustee of the trust fund created under Section 67-19f-201 and exercise the state's fiduciary responsibilities;
 - (b) meet at least twice per year;
 - (c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;
 - (d) review and approve the budget for the trust fund;
 - (e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and
 - (f) do any other things necessary to perform the state's fiduciary obligations under the trust fund.
- (3) The board may:
- (a) commission and obtain actuarial studies of the liabilities for the trust fund; and
 - (b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.
- (4) The attorney general shall:
- (a) act as legal counsel and provide legal representation to the board of trustees; and
 - (b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Amended by Chapter 368, 2015 General Session

Part 3

Investment of Trust Funds

67-19f-301 Investment of State Employees' Annual Leave Program II Trust Fund.

- (1) The state treasurer shall invest the assets of the trust fund with the primary goal of providing for the stability, income, and growth of the principal.
- (2) Nothing in this section requires a specific outcome in investing.
- (3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing the trust fund assets.
- (4)
 - (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.
 - (b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Enacted by Chapter 437, 2014 General Session

67-19f-302 State treasurer to follow "prudent investor" rule -- Standard of care.

- (1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:
 - (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and

- (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (2) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
 - (a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
 - (b) evaluate the state treasurer's investment and management decisions respecting individual assets:
 - (i) not in isolation, but in the context of the trust fund portfolio as a whole; and
 - (ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

Enacted by Chapter 437, 2014 General Session

Chapter 20

Volunteer Government Workers Act

67-20-1 Short title.

This chapter is known as the "Volunteer Government Workers Act."

Amended by Chapter 136, 1986 General Session

67-20-2 Definitions.

As used in this chapter:

- (1) "Agency" means:
 - (a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;
 - (b) a county, city, town, school district, or special improvement or taxing district; or
 - (c) any other political subdivision.
- (2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:
 - (a) incarceration;
 - (b) plea;
 - (c) sentence;
 - (d) diversion;
 - (e) probation; or
 - (f) parole.
- (3)
 - (a) "Volunteer" means a person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.
 - (b) "Volunteer" does not include:
 - (i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or
 - (ii) a compensatory service worker.

- (c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.
- (4) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.
- (5) "Volunteer safety officer" means an individual who:
 - (a) provides services as a volunteer under the supervision of an agency; and
 - (b) at the time the individual provides the services to the supervising agency described in Subsection (5)(a), the individual is:
 - (i) exercising peace officer authority as provided in Section 53-13-102; or
 - (ii) if the supervising agency described in Subsection (5)(a) is a fire department:
 - (A) on the rolls of the supervising agency as a firefighter;
 - (B) not regularly employed as a firefighter by the supervising agency; and
 - (C) acting in a capacity that includes the responsibility for the extinguishment of fire.
- (6) "Volunteer search and rescue team member" means an individual who:
 - (a) provides services as a volunteer under the supervision of a county sheriff; and
 - (b) at the time the individual provides the services to the county sheriff described in Subsection (6)(a), is:
 - (i) certified as a member of the county sheriff's search and rescue team; and
 - (ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

Amended by Chapter 249, 2013 General Session

67-20-3 Purposes for which a volunteer is considered a government employee -- Limitations of liability for volunteer facilitators.

- (1) Except as provided in Subsection (2) or (3), a volunteer is considered a government employee for purposes of:
 - (a) receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;
 - (b) the operation of a motor vehicle or equipment if the volunteer is properly licensed and authorized to do so; and
 - (c) liability protection and indemnification normally afforded paid a government employee.
- (2)
 - (a) A supervising agency shall provide workers' compensation benefits for a volunteer safety officer as provided in Section 67-20-7.
 - (b) A volunteer safety officer is considered an employee of the supervising agency of the volunteer safety officer for purposes of Subsections (1)(b) and (c).
- (3)
 - (a) The county of a county sheriff that certifies and supervises a volunteer search and rescue team member shall provide workers' compensation benefits for the volunteer search and rescue team member as provided in Section 67-20-7.5.
 - (b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team member is considered an employee of the county of the county sheriff that certifies and supervises the volunteer search and rescue team member.

- (4) A volunteer facilitator is immune from liability for damages or injuries arising out of or related to the volunteer service of a volunteer provided by the volunteer facilitator to an agency, unless:
 - (a) an action or omission of the volunteer facilitator is grossly negligent, not made in good faith, or made maliciously, and causes harm to a person or property; or
 - (b) the volunteer facilitator fails to exercise due diligence in determining the fitness of a volunteer to provide voluntary service to the agency under circumstances that make the volunteer facilitator's failure to exercise due diligence grossly negligent, not in good faith, or malicious.

Amended by Chapter 249, 2013 General Session

67-20-4 Approval of volunteer.

- (1) Except as approval is provided under Subsection (2), a volunteer may not donate any service to an agency unless the volunteer's services are approved by:
 - (a) the chief executive of that agency or the authorized representative; and
 - (b) the office of personnel having jurisdiction over that agency.
- (2) When the county sheriff determines that a search and rescue emergency situation exists that requires law enforcement action, the county sheriff may approve a volunteer who offers to donate a service for any law enforcement related activity conducted in response to the emergency situation.

Amended by Chapter 148, 2014 General Session

67-20-6 Compensatory service worker workers' compensation medical benefits.

A compensatory service worker is considered a government employee for purposes of receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under:

- (1) Title 34A, Chapter 2, Workers' Compensation Act; and
- (2) Title 34A, Chapter 3, Utah Occupational Disease Act.

Amended by Chapter 185, 2002 General Session

67-20-7 Workers' compensation benefits for a volunteer safety officer.

- (1) A volunteer safety officer is considered an employee of an agency that supervises the volunteer safety officer for the purpose of receiving workers' compensation benefits under:
 - (a) Title 34A, Chapter 2, Workers' Compensation Act; and
 - (b) Title 34A, Chapter 3, Utah Occupational Disease Act.
- (2)
 - (a) In accordance with Section 34A-2-105, the workers' compensation benefits described in Subsection (1) are the exclusive remedy against the supervising agency, or an officer, agent, or employee of the supervising agency, for all injuries and occupational diseases resulting from the volunteer safety officer's services for the supervising agency as a volunteer safety officer.
 - (b) For purposes of Subsection (2)(a), the supervising agency for whom the volunteer safety officer provides services as a volunteer safety officer is considered an employer of the volunteer safety officer.
- (3) To compute the workers' compensation benefits for a volunteer safety officer described in Subsection (1), the average weekly wage of the volunteer safety officer shall be the state's

average weekly wage at the time of the industrial accident or occupational disease that is the basis for the volunteer safety officer's worker's compensation claim.

Amended by Chapter 36, 2002 General Session

Amended by Chapter 185, 2002 General Session

Amended by Chapter 250, 2002 General Session

67-20-7.5 Workers' compensation benefits for a volunteer search and rescue team member.

- (1) A volunteer search and rescue team member is considered an employee of the county of the county sheriff that certifies and supervises the volunteer search and rescue team member for the purpose of receiving workers' compensation benefits under:
 - (a) Title 34A, Chapter 2, Workers' Compensation Act; and
 - (b) Title 34A, Chapter 3, Utah Occupational Disease Act.
- (2)
 - (a) In accordance with Section 34A-2-105, the workers' compensation benefits described in Subsection (1) are the exclusive remedy against the county of the supervising county sheriff or an officer, agent, or employee of the county or supervising county sheriff, for the injuries and occupational diseases resulting from the volunteer search and rescue team member's services for the supervising county sheriff as a volunteer search and rescue team member.
 - (b) For purposes of Subsection (2)(a), the county of the supervising county sheriff for whom the volunteer search and rescue team member provides services as a volunteer search and rescue team member is considered an employer of the volunteer search and rescue team member.
- (3) To compute the workers' compensation benefits for a volunteer search and rescue team member described in Subsection (1), the average weekly wage of the volunteer search and rescue team member for purposes of the volunteer search and rescue team member's workers' compensation claim is the average weekly wage of an entry-level deputy sheriff employed by the supervising county sheriff at the time of the industrial accident or occupational disease.

Enacted by Chapter 248, 2011 General Session

67-20-8 Volunteer experience credit.

- (1) State agencies shall designate positions for which approved volunteer experience satisfies the job requirements for purposes of employment.
- (2) When evaluating applicants for those designated positions, state agencies shall consider documented approved volunteer experience in the same manner as similar paid employment.
- (3) The Department of Human Resource Management shall make statewide rules governing the:
 - (a) designation of volunteer positions; and
 - (b) a uniform process to document the approval, use, and hours worked by volunteers.

Amended by Chapter 139, 2006 General Session

Chapter 21

Utah Protection of Public Employees Act

67-21-1 Short title.

This chapter is known as the "Utah Protection of Public Employees Act."

Enacted by Chapter 216, 1985 General Session

67-21-2 Definitions.

As used in this chapter:

- (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:
 - (a) adversely affects the employment rights of another; or
 - (b) results in personal gain to the person exercising the authority or to another person.
- (2) "Adverse action" means to discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.
- (3) "Communicate" means a verbal, written, broadcast, or other communicated report.
- (4) "Damages" means general and special damages for injury or loss caused by each violation of this chapter.
- (5) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.
- (6)
 - (a) "Employer" means the public body or public entity that employs the employee.
 - (b) "Employer" includes an agent of an employer.
- (7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.
- (8) "Judicial employee" means an employee of the judicial branch of state government.
- (9) "Legislative employee" means an employee of the legislative branch of state government.
- (10) "Political subdivision employee" means an employee of a political subdivision of the state.
- (11) "Public body" means any of the following:
 - (a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;
 - (b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;
 - (c) a county, city, town, regional governing body, council, school district, local district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;
 - (d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;
 - (e) a law enforcement agency or any member or employee of a law enforcement agency; and
 - (f) the judiciary and any member or employee of the judiciary.
- (12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.
- (13) "Public entity employee" means an employee of a public entity.
- (14) "Retaliatory action" is as defined in Section 67-19a-101.
- (15) "State institution of higher education" is as defined in Section 53B-3-102.
- (16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 427, 2013 General Session

67-21-3 Reporting of governmental waste or violations of law -- Employer action -- Exceptions.

- (1)
- (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:
 - (i) the waste or misuse of public funds, property, or manpower;
 - (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or
 - (iii) as it relates to a state government employer:
 - (A) gross mismanagement;
 - (B) abuse of authority; or
 - (C) unethical conduct.
 - (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:
 - (i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);
 - (ii) the attorney general's office;
 - (iii) law enforcement, if the conduct is criminal in nature;
 - (iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:
 - (A) the state auditor's office;
 - (B) the president of the Senate;
 - (C) the speaker of the House of Representatives;
 - (D) the governor's office;
 - (E) the state court administrator; or
 - (F) the Division of Finance;
 - (v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;
 - (vi) if the employee is a political subdivision employee:
 - (A) the legislative body, or a member of the legislative body, of the political subdivision;
 - (B) the governing body, or a member of the governing body, of the political subdivision;
 - (C) the top executive of the political subdivision; or
 - (D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or
 - (vii) if the employee is an employee of a state institution of higher education:
 - (A) the State Board of Regents or a member of the State Board of Regents;
 - (B) the commissioner of higher education;
 - (C) the president of the state institution of higher education where the employee is employed;
 - or
 - (D) the entity that conducts audits of the state institution of higher education where the employee is employed.
 - (c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.

- (2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.
- (3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.
- (4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:
 - (a) the waste or misuse of public funds, property, or manpower;
 - (b) a violation or suspected violation of any law, rule, or regulation; or
 - (c) as it relates to a state government employer:
 - (i) gross mismanagement;
 - (ii) abuse of authority; or
 - (iii) unethical conduct.

Amended by Chapter 427, 2013 General Session

67-21-3.5 Administrative review of adverse action against a public entity employee.

- (1) A public entity employee who believes that the employee's employer has taken retaliatory action against the employee in violation of this chapter may file a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5 and subject to Section 67-21-4.
- (2) If the Career Service Review Office determines that retaliatory action is taken in violation of this chapter against the public entity employee, the Career Service Review Office may order:
 - (a) reinstatement of the public entity employee at the same level held by the public entity employee before the retaliatory action;
 - (b) the payment of back wages, in accordance with Subsection 67-19a-406(5)(b);
 - (c) full reinstatement of benefits;
 - (d) full reinstatement of other employment rights; or
 - (e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101(8)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.
- (3) A public entity employer has the burden to prove by substantial evidence that the public entity employer's action was justified.
- (4) A public entity employee or public entity employer may appeal a determination of the Career Service Review Office as provided in Section 67-19a-402.5.

Enacted by Chapter 427, 2013 General Session

Amended by Chapter 427, 2013 General Session, (Coordination Clause)

67-21-3.6 Administrative review for political subdivision employees.

- (1)
 - (a) A political subdivision may adopt an ordinance to establish an independent personnel board to hear and take action on a complaint alleging adverse action.
 - (b) The ordinance described in Subsection (1)(a) shall include:
 - (i) procedures for filing a complaint and conducting a hearing; and

- (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2) If a political subdivision adopts an ordinance described in Subsection (1), a political subdivision employee may file a complaint with the independent personnel board alleging adverse action.
- (3) If an independent personnel board finds that adverse action is taken in violation of the ordinance described in Subsection (1)(a), the independent personnel board may order:
 - (a) reinstatement of the employee at the same level as before the adverse action;
 - (b) the payment of back wages;
 - (c) full reinstatement of fringe benefits;
 - (d) full reinstatement of seniority rights; or
 - (e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8) (d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

Enacted by Chapter 427, 2013 General Session

67-21-3.7 Administrative review for state institution of higher education employees.

- (1)
 - (a) A state institution of higher education may adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging adverse action.
 - (b) The policy described in Subsection (1)(a) shall include:
 - (i) procedures for filing a complaint and conducting a hearing; and
 - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2) If a state institution of higher education adopts a policy described in Subsection (1), an employee of the state institution of higher education may file a complaint with the independent personnel board alleging adverse action.
- (3) If an independent personnel board finds that adverse action is taken in violation of the policy described in Subsection (1)(a), the independent personnel board may order:
 - (a) reinstatement of the employee at the same level as before the adverse action;
 - (b) the payment of back wages;
 - (c) full reinstatement of fringe benefits;
 - (d) full reinstatement of seniority rights; or
 - (e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8) (d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

Enacted by Chapter 427, 2013 General Session

67-21-4 Choice of forum -- Remedies for employee bringing action -- Proof required.

- (1)
 - (a) Except as provided in Subsection (1)(b), and subject to Subsections (1)(c) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
- (b)

- (i) An employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:
 - (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
 - (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
 - (ii) An employee of a state institution of higher education that has adopted a policy described in Section 67-21-3.7:
 - (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
 - (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
 - (c) A public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:
 - (i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or
 - (ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
 - (d) A public entity employee who files a grievance under Subsection (1)(c)(i):
 - (i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;
 - (ii) may seek a remedy described in Subsection 67-21-3.5(2); and
 - (iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).
 - (e) A public entity employee who files a civil action under Subsection (1)(c)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.
- (2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.
- (3) To prevail in an action brought under this section, the employer shall prove by substantial evidence that the employer's action was justified.

Amended by Chapter 427, 2013 General Session

67-21-5 Court orders for violation of chapter.

- (1) A court, in rendering a judgment in an action brought under this chapter, may order reinstatement of the employee at the same level, the payment of back wages, full reinstatement of fringe benefits and seniority rights, damages, or any combination of these remedies.
- (2) A court shall award the complainant all or a portion of the costs of litigation, which are defined to include reasonable attorney fees and witness fees, if the court determines that the complainant prevails.

Amended by Chapter 427, 2013 General Session

67-21-6 Civil fine.

- (1)
 - (a) A person who violates this chapter is liable for a civil fine of not more than \$500.

- (b) The person who takes an adverse action against an employee in violation of this chapter, and not the public body that employs the employee, shall, after receiving notice and an opportunity to be heard, pay the civil fine under this Subsection (1).
 - (c) If a person is ordered to pay a civil fine under this Subsection (1), the employer may dismiss the person who took the adverse action in violation of this chapter.
- (2) A civil fine ordered under this chapter shall be submitted to the state treasurer for deposit in the General Fund.
- (3) The civil fine described in this section may be imposed if a violation of this chapter is found by:
- (a) an independent personnel board described in Subsection 67-21-3.6(1)(a) or 67-21-3.7(1)(a);
 - (b) the Career Service Review Office; or
 - (c) a court.

Amended by Chapter 427, 2013 General Session

67-21-7 No impairment of employee rights under collective bargaining agreement.

This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement.

Enacted by Chapter 216, 1985 General Session

67-21-8 No compensation when participation in public inquiry.

This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by a public body in accordance with Section 67-21-3.

Enacted by Chapter 216, 1985 General Session

67-21-9 Notice of contents of this chapter -- Posting.

- (1) An employer shall post notices and use other appropriate means to keep employees informed of their protections and obligations under this chapter.
- (2) Upon request by an employee, or when an employee alleges an adverse action, the employer shall provide the employee with a copy of this chapter.

Amended by Chapter 427, 2013 General Session

67-21-10 False accusations.

- (1) An employee violates this chapter if the employee knowingly makes a false accusation against an employer under this chapter.
- (2) An employee who violates Subsection (1), is subject to:
 - (a) a fine not to exceed \$5,000; and
 - (b) dismissal from employment.

Enacted by Chapter 427, 2013 General Session

Chapter 22
State Officer Compensation

67-22-1 Compensation -- Constitutional offices.

- (1)
- (a) Beginning on June 28, 2008, and ending on December 31, 2016, the Legislature fixes salaries for the constitutional offices as follows:
 - (i) governor: \$109,900;
 - (ii) lieutenant governor: 95% of the governor's salary;
 - (iii) attorney general: 95% of the governor's salary;
 - (iv) state auditor: 95% of the governor's salary; and
 - (v) state treasurer: 95% of the governor's salary.
 - (b)
 - (i) Subject to Subsection (1)(b)(iii), beginning on January 1, 2017, the salary for the governor shall be set annually by the Legislature in an appropriations act.
 - (ii) Beginning on January 1, 2017, constitutional office salaries shall be based on the following percentages of the salary of the governor:
 - (A) lieutenant governor: 90% of the governor's salary;
 - (B) attorney general: 95% of the governor's salary;
 - (C) state auditor: 90% of the governor's salary; and
 - (D) state treasurer: 90% of the governor's salary.
 - (iii) Beginning on January 1, 2017, until the Legislature sets the salary of the governor in an appropriations act, the governor's salary is \$150,000 per year.
- (2) The Legislature fixes benefits for the constitutional offices as follows:
- (a) governor:
 - (i) a vehicle for official and personal use;
 - (ii) housing;
 - (iii) household and security staff;
 - (iv) household expenses;
 - (v) retirement benefits as provided in Title 49, Utah State Retirement and Insurance Benefit Act;
 - (vi) health insurance;
 - (vii) dental insurance;
 - (viii) basic life insurance;
 - (ix) workers' compensation;
 - (x) required employer contribution to Social Security;
 - (xi) long-term disability income insurance; and
 - (xii) the same additional state paid life insurance available to other noncareer service employees; and
 - (b) lieutenant governor, attorney general, state auditor, and state treasurer:
 - (i) a vehicle for official and personal use;
 - (ii) the option of participating in a:
 - (A) state retirement system in accordance with Title 49, Utah State Retirement and Insurance Benefit Act:
 - (I) Chapter 12, Public Employees' Contributory Retirement Act;
 - (II) Chapter 13, Public Employees' Noncontributory Retirement Act; or
 - (III) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
 - (B) deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;
 - (iii) health insurance;
 - (iv) dental insurance;

- (v) basic life insurance;
 - (vi) workers' compensation;
 - (vii) required employer contribution to Social Security;
 - (viii) long-term disability income insurance; and
 - (ix) the same additional state paid life insurance available to other noncareer service employees.
- (3) Each constitutional office shall pay the cost of the additional state-paid life insurance for its constitutional officer from its existing budget.

Amended by Chapter 466, 2015 General Session

67-22-2 Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

- (i) commissioner of the Department of Agriculture and Food;
- (ii) commissioner of the Insurance Department;
- (iii) commissioner of the Labor Commission;
- (iv) director, Department of Alcoholic Beverage Control;
- (v) commissioner of the Department of Financial Institutions;
- (vi) executive director, Department of Commerce;
- (vii) executive director, Commission on Criminal and Juvenile Justice;
- (viii) adjutant general;
- (ix) executive director, Department of Heritage and Arts;
- (x) executive director, Department of Corrections;
- (xi) commissioner, Department of Public Safety;
- (xii) executive director, Department of Natural Resources;
- (xiii) executive director, Governor's Office of Management and Budget;
- (xiv) executive director, Department of Administrative Services;
- (xv) executive director, Department of Human Resource Management;
- (xvi) executive director, Department of Environmental Quality;
- (xvii) director, Governor's Office of Economic Development;
- (xviii) executive director, Utah Science Technology and Research Governing Authority;
- (xix) executive director, Department of Workforce Services;
- (xx) executive director, Department of Health, Nonphysician;
- (xxi) executive director, Department of Human Services;
- (xxii) executive director, Department of Transportation;
- (xxiii) executive director, Department of Technology Services; and
- (xxiv) executive director, Department of Veterans' and Military Affairs.

(b) "Board or commission executive" means:

- (i) members, Board of Pardons and Parole;
- (ii) chair, State Tax Commission;
- (iii) commissioners, State Tax Commission;
- (iv) executive director, State Tax Commission;
- (v) chair, Public Service Commission; and
- (vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.

(2)

- (a) The executive director of the Department of Human Resource Management shall:
 - (i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and
 - (ii) base those recommendations on market salary studies conducted by the Department of Human Resource Management.
- (b)
 - (i) The Department of Human Resource Management shall determine the salary range for the appointed executives by:
 - (A) identifying the salary range assigned to the appointed executive's deputy;
 - (B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and
 - (C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.
 - (ii) If the deputy is a medical doctor, the Department of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.
- (c)
 - (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.
 - (ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.
- (3)
 - (a)
 - (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).
 - (ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Department of Human Resource Management.
 - (iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).
 - (b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.
 - (c) The governor may develop standards and criteria for reviewing the appointed executives.
- (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 67-19-15.
- (5)
 - (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:
 - (i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;
 - (ii) health insurance;
 - (iii) dental insurance;

- (iv) basic life insurance;
- (v) unemployment compensation;
- (vi) workers' compensation;
- (vii) required employer contribution to Social Security;
- (viii) long-term disability income insurance;
- (ix) the same additional state-paid life insurance available to other noncareer service employees;
- (x) the same severance pay available to other noncareer service employees;
- (xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:
 - (A) sick leave;
 - (B) converted sick leave if accrued prior to January 1, 2014;
 - (C) educational allowances;
 - (D) holidays; and
 - (E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;
- (xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;
- (xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and
- (xiv) professional memberships if being a member of the professional organization is a requirement of the position.
- (b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.
- (6) The Legislature fixes the following additional benefits:
 - (a) for the executive director of the State Tax Commission a vehicle for official and personal use;
 - (b) for the executive director of the Department of Transportation a vehicle for official and personal use;
 - (c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;
 - (d) for the commissioner of Public Safety:
 - (i) an accidental death insurance policy if POST certified; and
 - (ii) a public safety vehicle for official and personal use;
 - (e) for the executive director of the Department of Corrections:
 - (i) an accidental death insurance policy if POST certified; and
 - (ii) a public safety vehicle for official and personal use;
 - (f) for the adjutant general a vehicle for official and personal use; and
 - (g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Amended by Chapter 470, 2015 General Session

Chapter 24

Lobbying Restrictions Act

67-24-101 Title.

This chapter is known as the "Lobbying Restrictions Act."

Enacted by Chapter 360, 2009 General Session

67-24-102 Definitions.

As used in this chapter:

- (1) "Lobbying" is as defined in Section 36-11-102.
- (2) "Lobbyist" is as defined in Section 36-11-102.
- (3) "State official" means:
 - (a) a member of the Legislature;
 - (b) the governor;
 - (c) the lieutenant governor;
 - (d) the state auditor;
 - (e) the state treasurer; and
 - (f) the attorney general.

Enacted by Chapter 360, 2009 General Session

67-24-103 Qualified prohibitions on lobbyists -- Time limit -- Exceptions.

- (1) Except as provided in Subsection (2), a former state official serving on or after May 12, 2009, may not become a lobbyist or engage in lobbying that would require registration as a lobbyist under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, for one calendar year, beginning on the day the state official leaves office and ending on the one-year anniversary of that day.
- (2) This section does not apply if the former state official engages in lobbying on behalf of:
 - (a) himself; or
 - (b) a business with which he is associated, unless the primary activity of the business is lobbying or governmental relations.

Enacted by Chapter 360, 2009 General Session

Chapter 25
General Requirements for State Officers and Employees

Part 1
General Provisions

67-25-101 Title.

This chapter is known as "General Requirements for State Officers and Employees."

Enacted by Chapter 442, 2011 General Session

67-25-102 Definitions.

As used in this chapter:

- (1) "Career service employee" is as defined in Section 67-19-3.
- (2) "Executive branch elected official" means:

- (a) the governor;
 - (b) the lieutenant governor;
 - (c) the attorney general;
 - (d) the state treasurer; or
 - (e) the state auditor.
- (3) "Executive branch official" means an individual who:
- (a) is a management level employee of an executive branch elected official; and
 - (b) is not a career service employee.
- (4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Amended by Chapter 425, 2013 General Session

Part 2

Work Week

67-25-201 State agency work week.

- (1) Except as provided in Subsection (2), and subject to Subsection (3):
- (a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:
 - (i) in person;
 - (ii) online; or
 - (iii) by telephone; and
 - (b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:
 - (i) in person;
 - (ii) online; or
 - (iii) by telephone.
- (2)
- (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.
 - (b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:
 - (i) the Department of Technology Services, created in Section 63F-1-103;
 - (ii) the Division of Child and Family Services, created in Section 62A-4a-103; and
 - (iii) the Office of Guardian Ad Litem, created in Section 78A-6-901.
- (3) A state agency shall make staff available, as necessary, to provide:
- (a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:
 - (i) testifying;
 - (ii) the production of records or evidence; and
 - (iii) other services normally available to a court or administrative body;

- (b) security services; and
 - (c) emergency services.
- (4) This section does not limit the days or hours a state agency may operate.
- (5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:
- (a) the number of physical locations, if any are required by this section, operating each day;
 - (b) the daily hours of operation of a physical location;
 - (c) the number of state agency employees who work per day; and
 - (d) the hours a state agency employee works per day.
- (6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:
- (a) the number of physical locations operating each day;
 - (b) the daily hours of operation, as required by Subsection (2)(b), of each physical location;
 - (c) the number of state agency employees who work per day; and
 - (d) the hours a state agency employee works per day.
- (7) A state agency shall:
- (a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and
 - (b) except as provided in Subsection (8), as soon as reasonably possible:
 - (i) contact a person who makes a request for an in-person meeting; and
 - (ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.
- (8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:
- (a) would constitute a conflict of interest;
 - (b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a, Utah Procurement Code;
 - (c) would violate an ethical requirement of the state agency or an employee of the state agency; or
 - (d) would constitute a violation of law.

Amended by Chapter 433, 2013 General Session

Part 3

Restrictions on Outside Employment

67-25-301 Title.

This part is known as "Restrictions on Outside Employment."

Enacted by Chapter 425, 2013 General Session

67-25-302 Restrictions on outside employment by executive branch employees.

- (1) An employee who is under the direction or control of an executive branch elected official may not engage in outside employment that:
- (a) constitutes a conflict of interest;

- (b) interferes with the ability of the employee to fulfill the employee's job responsibilities;
 - (c) constitutes the provision of political services, political consultation, or lobbying;
 - (d) involves the provision of consulting services, legal services, or other services to a person that the employee could, within the course and scope of the employee's primary employment, provide to the person; or
 - (e) interferes with the hours that the employee is expected to perform work under the direction or control of an executive branch elected official, unless the employee takes authorized personal leave during the time that the person engages in the outside employment.
- (2) An executive branch official shall be subject to the same restrictions on outside employment as a career service employee.
- (3) This section does not prohibit an employee from advocating the position of the state office that employs the employee regarding legislative action or other government action.

Enacted by Chapter 425, 2013 General Session